

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1884.—Ordered to be printed.

Mr. MORGAN, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany S. Res. 68 and Mis. Doc. 59.]

The Committee on Foreign Relations, to whom were referred Senate Mis. Doc. No. 59 and Senate Joint Resolution 68, relating to the occupation of the Congo country, in Africa, have had the same under consideration, and report a substitute for the same, and recommend its passage.

The President, in his annual message to this Congress, expresses the sentiment of the people of the United States on the subject of our future relations with the inhabitants of the valley of the Congo, in Africa:

Our attitude towards that country is exceptional, and our interest in its people is greatly enhanced by the fact that more than one-tenth of our population is descended from the negro races in Africa.

The people of the United States, with but little assistance from the Government, have established a free republic in Liberia, with a constitution modeled after our own, and under the control of the negro race. Its area is 14,300 square miles; its population is about 1,200,000 souls. Its commerce is valuable; its government is successful, and its people are prosperous.

The necessity for a negro colony in Liberia was suggested by the fact that slaves found in vessels captured for violations of the slave-trade laws and treaties were required to be returned to Africa when that was practicable, and it was impossible, and it would have been useless and cruel, to send them back to the localities where they were first enslaved. Humanity prompted certain private citizens of the United States to organize the American Colonization Society in aid of the return of captured slaves to Africa and to find a congenial asylum and home for negroes who were emancipated in the United States.

Henry Clay was, for many years, president of this association, and assisted it with the influence of his great name and broad philanthropy.

The success of the Liberian colony has demonstrated the usefulness of that system of dealing with a social question which is, to the people of the United States, of the highest importance. It has also established a recognized precedent in favor of the right of untitled individuals to found states in the interests of civilization in barbarous countries, through the consent of the local authorities, and it has given confidence to those who look to the action of the nations for a restoration of

the emancipated Africans to their own country, if they choose to return to it.

This great duty has, so far, been left entirely to the efforts of citizens of the United States, and it has been supported almost exclusively by their personal contributions. The governments of the world have been slow even to recognize the state thus founded by the courage and means of private citizens, but it is now firmly established in the family of nations, and is everywhere recognized as a free and independent nation.

This pleasing history of progress, attended with peace and prosperity in Liberia, has given rise to a feeling of earnest interest amongst the people of the United States in the questions which arise from the recent discovery by their countryman, H. M. Stanley, of the great river which drains equatorial Africa. They rejoice in the revelation that this natural highway affords navigation for steamers extending more than half the distance across the continent, and opens to civilization the valley of the Congo, with its 900,000 square miles of fertile territory and its 50,000,000 of people, who are soon to become most useful factors in the increase of the productions of the earth and in swelling the volume of commerce.

The movements of the International African Association which, with a statement of its purposes, are referred to in the letter of the Secretary of State, appended to this report, are in the direction of the civilization of the negro population of Africa, by opening up their country to free commercial relations with foreign countries.

As a necessary incident of this praiseworthy work, which is intended, in the broadest sense, for the equal advantage of all foreign nations seeking trade and commerce in the Congo country, the African International Association has acquired, by purchase from the native chiefs, the right of occupancy of several places for their stations and depots. Property so acquired is claimed only for the association, which is composed of persons from various countries, and it could not, therefore, be held under the shelter of any single foreign flag.

From the time when the people of Christian countries began to export slaves from Africa, the custom grew up of locating "barracoons" or slave depots along the African coasts and rivers, and they were each placed under the shelter of the flag of the country to which the slave merchants belonged. In this way certain settlements were made along the shores of the Congo River as far inland as Yellalla Falls, and were claimed and held under the protection of the respective flags of the countries from which these traders came.

This was, generally, a mere personal adventure, and had no relation to any governmental authority of those countries over the barracoons. When this traffic took the shape of legitimate commerce with the natives, these places were called factories, and they gradually assumed certain powers of self-government as their necessities required. Each factory was independent of the control of all others, and established for itself such regulations, having really the effect of laws, as was necessary to protect life and property. To this day those settlements are held in the same way, and while the governments, whose flags are thus displayed over them, claim no sovereignty there, they do recognize the rights of their people at such places as entitling them to protection, and they require their flags to be respected.

In some instances the native chiefs sold the lands on which the factories were situated, with the privileges of trade to foreign companies, and these in turn sold them to persons of still other nationalities.

The African International Association established its stations, and

opened roads leading from one to another around the falls of the Congo in the same way that the older factories had been established, with the additional fact in their favor that their settlements were always preceded by an open agreement with the local government in the form of a treaty. A flag was as necessary for the purposes of their settlement and as an indication of their right and to designate the places under their control, as it was to the slave traders, whose only advantage is that they have been in possession a long time for the purposes of nefarious traffic in slaves, while the Association has been in possession only a short time for the benign purposes of introducing civilization into that country.

Having no foreign flag that they could justly claim, they adopted a flag and displayed it, a golden star in a field of blue, the symbol of hope to a strong but ignorant people, and of prosperity through peace. The native people instinctively regarded that as the first banner they had seen that promised them good-will and security, and they readily yielded to it their confidence.

There is no historical record to be found of such a rapid and general assembling of separate and independent rulers under a banner that was raised by the hands of strangers, as that which took place amongst the chiefs and people of the Free States of the Congo. Within five years from the time the banner of this association was first displayed on the Congo, its agents have made nearly one hundred treaties with the chiefs of the different tribes in the Congo country. In each of these treaties there are valuable commercial agreements and regulations touching law and order, and certain delegations of limited powers, all of which are intended for the better government of the country.

The powers are not ceded to a new and usurping sovereignty seeking to destroy existing governments, but are delegated to a common agent for the common welfare. In the language of the first treaty, concluded at Vivi June 13, 1880, and which is the plan after which nearly one hundred subsequent treaties have been modeled—

The aforesaid chiefs of the district of Vivi recognize that it is highly desirable that the *comité d'études* of the Congo should create and develop in their states establishments calculated to foster commerce and trade, and to assure to the country and its inhabitants the advantages which are the consequence thereof.

With this object in view they cede and abandon, in full property (fee-simple), to the *comité d'études*, the territory comprised within the following limits, &c.

A copy of this treaty is appended to the report of the committee.

If these local governments had the right to make these concessions, so much sovereign power as they confer upon the African International Association is entitled to recognition by other nations as justifying its claim to existence as a government *de jure*. Or, if there is still a question as to its sovereignty, affecting either its territorial extent or the subjects as to which it may legislate, there is still enough of concert amongst the native tribes, in placing themselves in treaty relations with this association, to warrant other nations in recognizing its existence as a government *de facto*. In either case, it is our duty so to recognize it, because its purposes, as avowed in those treaties, are peaceful, and commend themselves strongly to the sympathies of our people.

The golden star of the banner of the International Association represents hospitality to the people and commerce of all nations in the Free States of the Congo; civilization, order, peace, and security to the persons and property of those who visit the Congo country, as well as to its inhabitants; and if, in the promotion of these good purposes, it lawfully represents powers ceded or delegated to the Association by the local

governments necessary to make them effectual, it does not thereby offend against humanity nor unlawfully usurp authority in derogation of the rights of any nation upon the earth.

Powers asserted in good faith, and with a reasonable show of ability to maintain them, even by rebels, within a state that denounces their assertion as treasonable, are often recognized as being lawful, as well in the interests of humanity, as to give to the alleged rebels an opportunity to make good their pretensions by arms.

The history of our recent civil war discloses the recognition of the belligerent rights of the Confederate States by all nations, including the United States, which wholly denied the lawfulness of the acts of secession which led to hostilities, and denounced them as treasonable.

If the flag of the Confederate States could protect its armed citizens against the penalties of piracy while destroying the ships and commerce of the United States, it would be difficult to state a reason why the flag of the International African Association should not protect its ships from capture and condemnation while carrying on peaceful commerce on the Congo. It would be still more difficult for any Christian nation to assign a reason founded in the principles of international law why it should refuse to recognize this flag. The Congo River has been for centuries, and is now, the common resort of the ships and flags of all countries, and it requires a total change of the political conditions in that country to destroy this right, and either to declare the waters and shores of the Congo as being neutral territory or as being under the sovereignty of any one or more of the foreign nations.

These reasons, and others which appear in the papers appended to this report, are a just and sufficient foundation for the declaration by the United States which individualizes the flag of the African International Association as a national flag, entitled to our recognition and respect.

The precedents in our own history to justify our recognition of states while in the process of early development are numerous and conclusive. They are cited in the papers appended to this report, and are sustained by many other references which show that in Europe, Asia, and Africa civil power, exerted by commercial associations, and by religious orders, and by propagandas of civilization, and by groups of Hospitalers, has owned large war fleets and raised armies, fought great battles, levied taxes, and performed every function of government. They did all this without claiming to possess sovereign power as organized nations; and they submitted themselves to the authority of the state after they had prepared the country where they ruled for that final act of establishment of sovereign power, and then they ceased to exist.

It is not necessary to go further in order to find a justification of the action suggested in the message of the President, and of the resolution which the Committee on Foreign Relations recommend as a proper means of carrying into effect this policy concerning the Free States of the Congo.

It is, however, proper to make some examination of the alleged claim of Portugal to the sovereignty of the mouth of the Congo, and of the riparian country as far to the interior as the first falls of Yellalla.

Portugal's pretensions to this sovereignty are completely refuted by the fact that it has not been heretofore acknowledged by the five great powers whose flags have been flying for more than a century in the country now claimed by that Government. On the contrary, these powers have constantly refused to make any such concession on all occasions since 1786, and some of them previous to that time.

The claim of Portugal, based on discovery of the mouth of the Congo

by Diogo Cam in 1485, and by his having erected a monument on the shore to testify to his landing there, only establishes its antiquity and not its rightfulness under modern interpretations of the laws of nations.

If the laws of Christian nations give any effect to the discovery by the subjects of a Christian power, of a country inhabited even by savages, they also require that discovery shall be followed by continuous subsequent occupation. If such occupation ceases, it is justly considered as being abandoned, since the only foundation of reason or of justice that can support the occupation of an inhabited country by a foreign power is, that it is better that the savages should have the advantages of Christian instruction and laws, than that they should continue in darkness to rule the country in their own way. If, therefore, the Christian ruler should cease to occupy the country, it must be considered that he abandons his duty, and, with it, the sovereignty of the country.

Portugal did not exert continuous or exclusive authority on the Congo for any great while; her possessions there, as well as those of the other Christian powers, fluctuated with the supply of slaves, the capture or purchase of which was the chief inducement to these settlements. They all followed up the supply of slaves from the interior of Africa, along the coast, according to its abundance, as the fishermen visit different localities in search of better fishing grounds.

In 1786, disputes having arisen between France and Portugal as to the sovereignty of the latter over the mouth of the Congo, under the mediation of the King of Spain, Portugal conceded the point that her rights in that country were not exclusive. Since that time England has repeatedly denied, in the most formal and solemn manner, that Portugal had any sovereignty or suzerainty over the Congo country. None of the great powers claimed such sovereignty for themselves, nor have they conceded it to Portugal; their occupancy has not been such as implied any right to rule the country, but only such as was necessary to carry on trade. That is equally free to all nations. In the papers appended to this report, and especially in the valuable testimony of Earl Mayo, based upon his personal observations in the Congo country in 1882, we find the most conclusive proof upon all the points above stated, and unquestionable evidence that Portugal's northernmost boundary on the west coast of Africa, south of the Equator, for many years past, has been the river Loge.

The attitude of Great Britain towards the pretensions of Portugal to the sovereignty of the Lower Congo has been that of decided, frequent, and stern denial, accompanied with distinct orders to her fleets to repel any advance of Portugal to assert her authority north of Ambriz. This record, so repeatedly reaffirmed, is by no means changed by the fact that Great Britain may now be ready to admit Portugal, in alliance with her, to sovereign rights in the Lower Congo. Her change of policy cannot change the facts, especially when Great Britain obtains from Portugal the cession of Wydha in consideration that she will acknowledge the rights of Portugal to the sovereignty of the Lower Congo. Great Britain has also made treaties with fifteen tribes in the Lower Congo country, paying no attention to Portugal's claims of sovereignty there.

In like manner France has disregarded these pretensions, and has made treaties with tribes north of the Congo. De Brazza, an enterprising explorer, went into that region of Africa as an agent of the African International Association, and also as an agent of the French

Government, and was supported with money from the French treasury. He made these treaties in the name of France, and the Chamber of Deputies has ratified them. In view of these facts it can scarcely be denied that the native chiefs have the right to make treaties. The able and exhaustive statements and arguments of Sir Travers Twiss, the eminent English jurist, and of Professor Arntz, the no less distinguished Belgian publicist, which are appended to this report, leave no doubt upon the question of the legal capacity of the African International Association, in view of the laws of nations, to accept any powers belonging to these native chiefs and governments which they may choose to delegate or cede to them.

The practical question to which they give an affirmative answer, for reasons which appear to be indisputable, is this: Can independent chiefs of savage tribes cede to private citizens (persons) the whole or part of their states, with the sovereign rights which pertain to them, conformably to the traditional customs of the country?

The doctrine advanced in this proposition, and so well sustained by these writers, accords with that held by the Government of the United States, that the occupants of a country, at the time of its discovery by other and more powerful nations, have the right to make the treaties for its disposal, and that private persons, when associated in such country, for self-protection or self-government, may treat with the inhabitants for any purpose that does not violate the laws of nations.

The following incidents mentioned in Bancroft's History of the United States, show how much we owe, as a people, to the early recognition of these doctrines:

MASSACHUSETTS.

One day in March, 1621, Samoset, an Indian, who had learned a little English of the fishermen at Penobscot, entered the town, and, passing to the rendezvous exclaimed in English, "Welcome Englishmen!" He was the envoy of Massasoit himself, the greatest commander of the country; sachem of the tribe possessing the land north of Narragansett Bay, and between the rivers of Providence and Taunton. After some little negotiation, in which an Indian who had been carried to England acted as interpreter, the chieftain came in person to visit the Pilgrims. With their wives and children they amounted to no more than fifty. He was received with due ceremonies, and a treaty of friendship was completed in few and unequivocal terms. Both parties promised to abstain from mutual injuries, and to deliver up offenders; the colonists were to receive assistance, if attacked; to render it, if Massasoit should be attacked unjustly. The treaty included the confederates of the sachem; it is the oldest act of diplomacy recorded in New England, it was concluded in a day, and was sacredly kept for more than half a century. (Bancroft's History of the United States, p. 210).

The men of Plymouth exercised self-government without the sanction of a royal charter, which it was ever impossible for them to obtain. (*Ibid*, p. 213.)

The attempt to acquire the land on Narragansett Bay was less deserving of success. * * * In 1641 a minority of the inhabitants, wearied with harassing disputes, requested the interference of the magistrates of Massachusetts, and two sachems near Providence surrendered the soil to the jurisdiction of that State. (*Ibid*, p. 287.)

PROVIDENCE PLANTATIONS AND RHODE ISLAND.

In June (1636) the law-giver of Rhode Island (Roger Williams), with five companies, embarked on the stream; a frail Indian canoe contained the founder of an independent State and its earliest citizens. Tradition has marked the spring of water near which they landed. To express unbroken confidence in the mercies of God, he called the place Providence. * * * The land which he occupied was within the territory of the Narragansetts. In March, 1638, an Indian deed from Canonicus and Miantonomoh made him the undisputed possessor of an extensive domain; but he "always stood for liberty and equality both in land and government." The soil became his "own as truly as any man's coat upon his back;" and he "reserved to himself not one foot of land, not one tittle of political power, more than he granted to servants

and strangers." He gave away his lands and other estates to them that he thought most in want until he gave away all. (*Ibid*, p. 254.)

Before the month (March, 1638,) was at an end, the influence of Roger Williams and the name of Henry Vane prevailed with Miantonomoh, the chief of the Narragansetts, to make them a gift of the beautiful island of Rhode Island. * * * A patent from England was necessary for their security; and in September they obtained it through the now powerful Henry Vane. (*Ibid*, p. 263.)

CONNECTICUT.

In equal independence a Puritan colony sprang up at New Haven, under the guidance of John Davenport as its pastor, and of his friend the excellent Theophilus Eaton. * * * In April, 1638, the colonists held their first gathering under a branching oak. * * * A title to lands was obtained by a treaty with the natives whom they protected against the Mohawks. (*Ibid*, p. 271.)

NEW HAMPSHIRE.

At the fall of the leaf in 1635, a band of twelve families, toiling through thickets of ragged bushes and clambering over crossed trees, made their way along Indian paths to the green meadows of Concord. A tract of land 6 miles square was purchased for the planters of the squaw sachem and a chief, to whom, according to Indian laws of property, it belonged (*Ibid*, p. 257.)

NORTH CAROLINA.

In 1660 or 1661 New England men had found their way into the Cape Fear River, had purchased of the Indian chief a title to the soil, and had planted a little colony of herdsmen far to the south of any English settlement on the continent. (*Ibid*, p. 409.)

It is known that in 1662 the chief of a tribe of Indians granted to George Durant the neck of land which still bears his name. (*Ibid*, p. 410.)

We owe it as a duty to our African population that we should endeavor to secure to them the right to freely return to their fatherland, and as freely to agree with their kindred people upon any concessions they may choose to make to them as individuals or as associated colonists, looking to their re-establishment in their own country. The deportation of their ancestors from Africa in slavery was contrary to the now accepted canons of the laws of nations and now they may return under those laws to their natural inheritance. In exercising this right they should not be obstructed by a power that had more to do with their enslavement and expulsion, in bondage, from their own country than any other, and that never held a claim upon that country for any purpose of advantage to the people there, but held it chiefly, if not entirely, for the mere purpose of enslaving them.

It is stated, with the support of strong testimony that Portugal is still protecting the slave trade on the west coast of Africa under a thin guise of the voluntary emigration of the negroes to other countries.

Extracts appended to this report, from Earl Mayos *De Rebus Africanus*, in which he gives an account of his personal examination, in 1882, of the Portuguese trading posts, supported by the report of M. du Verge, our United States consul at St. Paul de Loando, show that slavery still exists in the country claimed by Portugal on the Congo, and is fostered there and at St. Paul de Loando by the Portuguese residents.

This violation of the slave-trade treaties renders the occupancy by Portugal of any African territory at the mouth of the Congo dangerous to all the tribes of the interior, and cannot be sanctioned by the treaty powers while it is attended with such incidents without an abandonment of all treaty obligations and duties relating to the slave trade.

The importance of the Congo River to the continent of Africa as a channel through which civilization and all its attendant advantages will be introduced into a region inhabited by 50,000,000 of people cannot be too highly estimated.

After Stanley had made his journey of exploration of nearly 7,000

miles across the continent of Africa, and had revealed to the world the extent and importance of this great river Congo, all the great commercial nations at once began to look earnestly in that direction for a new and most inviting field of commerce, and with the high and noble purpose of opening it freely to the equal enjoyment of all nations alike.

The merchants of Europe and America insist upon this equal and universal right of free trade with that country, and their chambers of commerce have earnestly pressed upon their respective governments the duty and necessity of such international agreements as would secure these blessings to the people of Africa and of the entire commercial world.

The enlightened King of the Belgians has supplied the means from his private purse to inaugurate civilization in the Congo country under the authority of its native rulers. He has no thought of extending the power of his realm over that country, but has engaged in this movement only as any citizen might.

The following extract, copied from the *Pall Mall Gazette*, printed in 1882, gives an account in brief of the progress made by the African International Association within the first three years after Stanley's discovery:

The interests involved on the Congo are very considerable. The imports of English manufactures are said to amount to £600,000 per annum. Two British steam companies call regularly at the mouth of the river, and the gross exports and imports are stated to amount to £2,000,000 per annum. The Portuguese claim to have twenty-five or twenty-six of the forty-nine European factories established on the Congo, and nine-tenths of the foreign population is of Portuguese origin. But English traders deny that there is a single Portuguese merchant on the Congo, and say, with the exception of a few unimportant factories on the coast north of Ambriz, Portugal has no commercial interest in the territory. Some idea of the depth of the Congo may be gained from the fact that vessels of 5,000 tons burden can anchor in the stream off Vivi, 120 miles from the sea. Above Isangila the cataracts form the first serious obstacle to communication with the interior. Mr. Stanley has made a road 100 miles long past the cataracts, across which he has transported to the Upper Congo three steamers in sections. Two steamers, the *Belgique* and the *Esperance*, trade between Vivi and the mouth of the river, the *Royal* plies between Manganya and Isangila, while the *En Avant* was launched in Stanley Pool on December 3, 1881. From Stanley Pool the *En Avant* can steam for 800 miles into the very heart of Africa. Mr. Stanley, who left this country last December, is now on his way to the Upper Congo at the head of 300 well-armed negroes from Zauzibar. The Baptist Missionary Society has eleven missionaries, four stations, and one steamboat on the river. In August, 1877, Mr. Stanley concluded his long march of 6,900 miles from the east to the western coast of Africa, and arrived at the mouth of the Congo with the discovery, made at a cost of three white men and more than two hundred and fifty natives of his escort, that the river Congo, or, as he called it, the Livingstone, was the most magnificent waterway in Africa, draining a watershed of 860,000 square miles, and opening a highway for European commerce to the whole of the equatorial region of an almost unknown continent. Mr. Stanley declared on his return, that whatever power could possess itself of the river, would absorb to itself the trade of the whole of the enormous basin behind, which extends across 13 degrees of longitude and covers 14 degrees of latitude. Next year the International African Association was formed, under the presidency of the King of the Belgians, and exploring parties were dispatched to open up the Congo by establishing a series of exploring stations which in time would extend across Africa. At the same time the French Government entered upon a scheme of its own of a similar nature, and various adventurers, of whom M. de Brazza is the most notorious, were dispatched to Central Africa to pick up whatever unconsidered trifles of territory might be found unappropriated, in order to gird the continent with the tricolor.

Its progress is thus further described by an agent of the African International Association in a letter within the past month:

BRUSSELS, February 25.

* * * * *

Our territories are extending now on a very rich coast south and north of the mouths of the Quilou, a distance of more than 350 kilometers (about 300 miles).

That coast has given itself to us by unanimous acclamation of the natives, who hoisted our flag and refused our presents.

Our territories are going to be divided into three provinces: (1) Coast and Guiliou Madi; (2) Lower Congo; Vivi, Stanley Pool; (3) Upper Congo.

Our governmental organizations will then be complete: In Africa, a head chief and governors administering the country and justice; in Europe, the association providing for the financial wants of the new state, and representing the new state and many native sovereigns who have confederated with us and hoisted our flag.

This is the present situation and prospects of the enterprise.

It may be safely asserted that no barbarous people have ever so readily adopted the fostering care of benevolent enterprise as have the tribes of the Congo, and never was there a more honest and practical effort made to increase their knowledge and secure their welfare.

The people of the Congo country and their benefactors alike deserve the friendly recognition of the United States in their new national character.

Your committee, therefore, report a substitute for the resolutions referred to them by the Senate, and recommend its passage.

DEPARTMENT OF STATE,
Washington, January 18, 1884.

SIR: I am in receipt of your letter of the 14th instant, in relation to the Valley of the Congo, in which you ask the nature of the understanding on which it is being occupied by settlements, &c.

The settlements are all under the general charge of the International African Association, which originated in a congress convened in 1876 by invitation of the King of the Belgians, the object of which it declared to be to extend civilization through Central Africa, and as a means thereto it has built roads around the cataracts and established stations to aid travelers, traders, and missionaries. The executive committee of the association consists of Dr. Nachtgeal, Mr. de Quatrefages, and Mr. Sanford, of Florida, formerly our minister to Belgium. Each nation has a branch association in its own country, of which, in the United States, Judge Daly was, and Mr. Latrobe, of Baltimore, is, the president. Stations have been fixed as far as the Central Lakes, and it is understood that the ground occupied by them has been obtained usually on long leases through friendly agreement with the native chiefs, the whole policy of the association being a peaceful and benevolent one. It is an open secret that the funds which supply the vast expense of this association are furnished by the King of the Belgians from his private means. The entire work on the river is under the executive management of Mr. Stanley. Before Mr. Stanley's well-known exploration, when, coming from Zanzibar, he struck the Congo near its source, and followed it to its mouth, it is not known that any white men had penetrated above the lower cataract, the first station which Mr. Stanley struck on his way to the sea being at Boma, or Emboma, as it is sometimes called; yet the Portuguese claim political rights in the valley, which, however, are not admitted by other nations. Over all the stations of the African Association on the Congo floats the flag of that association; and it is the theory, I understand, to gradually build up, and educate, at the different posts, in the natives and settlers, a power of self-government, by which they shall be self-sustaining.

I am glad to see that your attention has been directed to this matter. The population of the Valley of the Congo is very large, estimated by Mr. Stanley, I believe, at about 50,000,000. It is rich in natural resources, and undoubtedly offers a market for our productions, particularly in a certain grade of cottons; which are more popular in Africa than any produced by other nations, and probably in notions, some kinds of tools, &c. The passage in the President's message indicates his desire that the United States should not lose its share of the trade and commercial influence in this interesting and rich valley.

Lack of funds has prevented this Department from making that careful and official examination upon the spot which the President would have liked to direct.

In conclusion, I have the honor to refer you to the New York Herald of Sunday, December 30, which contains a map of the lower basin of the Congo, prepared under Mr. Stanley's direction, which is not elsewhere published, and a very full and interesting article on the subject.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. JOHN T. MORGAN,
United States Senate.

DEPARTMENT OF STATE,
Washington, March 13, 1884.

SIR: In further reply to your letter of the 14th January, and in reply to your letter dated the 6th of February, in relation to settlements on the Congo River, I have the honor to inform you that I have given the matters careful attention and consideration.

The Congo basin may be described under the designation of the Upper and Lower Congo. The Lower Congo extends from Vivi, the base of supplies and the first station of the African International Association, at the foot of the Cataracts, to the mouth of the Congo River. Its principal port is Boma, formerly the center of the slave-trade of that region. A more legitimate trade is now taking its place. Factories, of different nationalities, are rapidly increasing there, and the protection of life and property of our citizens requires that something should be done, probably in concert with other powers, to replace the crude and often cruel acts which now take the place of organized justice under the arbitrary action of the separate nationalities there assembled.

Both banks of the Lower Congo have been claimed by Portugal. It is not necessary, at this time, to discuss this claim, as it should not, in any event, be admitted to extend to and control of the Upper Congo, discovered by an American, and opened to the world and to civilization by the African International Association. To this region free access both by land and water should be secured to our citizens and trade.

This African International Association, under the presidency of the King of the Belgians, with an executive committee representing the English-speaking, Germanic, and Latin races, and composed of leading men of both continents, has for its sole object the development of the vast, fertile, and populous regions of Central Africa by a chain of posts or stations under its flag, which shall give hospitality and aid to all comers, traders, or missionaries, or others. It has acquired from native chiefs or kings, by peaceful cession or purchase, a large extent of territory bordering on the Congo and adjacent rivers, extending over 2,000 miles of river banks, covering many square miles of territory, many hundreds of thousands of people, and has established twenty-two stations under the flag of the association. It has a numerous *personnel* and local organization of Americans, Europeans, and natives; is served by seven steamers under the same flag; each of the stations has become a center of trade and industry, rapidly increasing in population, and which seeks the protection of the association for its commerce and from the slave-trade. These stations appear to be governed by regulations and laws mostly drawn from those of European states, as transmitted to them by the Association, and are still in part supported, for the present, until their resources from the country are further developed, by the International Association, which only waits, as we have been notified, more complete development to leave them as free states of the Congo, to freely elect their own rulers and provide for their own maintenance. Until that be done, the Association makes provision for them.

The attention of the Government has been called to this condition of things, not alone in the interests of our citizens seeking trade with that vast and fertile region and as an outlet for the overproduction of our manufactures, but as also a practical means of striking at the roots of the slave-trade. Heretofore, under treaties, ships of war have been employed on both the eastern and western coasts of Africa, at great expense, to intercept the slave-vessels and the shipments of slaves.

Boma, near the mouth of the Congo, until recently, was the great mart of the west coast for the trade and shipment of slaves, and the country on both banks of the Congo, for a considerable distance back, has been devastated and depopulated for the purposes of the traffic. The abolition of the slave-trade by most civilized nations has changed the course of this traffic, which now finds its outlet by the eastern coast to the Soudan, Arabia, &c., in very restricted proportions, however. I have no definite information on the subject, but it is stated that about 10,000 slaves are still exported annually at a cost of several times that number of lives, and the destruction of many villages.

The practical way of treating this subject, and of securing protection to our citizens in their legitimate enterprises, appears to be the recognition, as a friendly flag, of the flag of the International Association which floats over these stations as the sign of protection and of civilization to the hundreds of thousands of people flocking around it, and the appointment of an agent of the Government to reside there. It is proposed by the Association to admit American goods free of all duties, to permit Americans, whether traders or missionaries, to hold property and to exercise every legitimate pursuit, to assure them the same privileges that may hereafter be accorded to any other people, and to abolish the slave-trade in all the regions acquired by the Association. In return, we are asked to accept these privileges by simply a declaration, and a direction to our agents abroad to recognize the flag of the International Association as a friendly one.

It is asserted by some that a political organization would be necessary for such a

recognition, and that political consequences would be derived from it. But it is conceived that there is nothing in international law to prevent a philanthropic association from founding a state any more than there is to prevent bands of individuals, whether Puritans or adventurers, from so doing. There are many precedents for this in history which are well known to you, and need not be here repeated further than to suggest one which is of peculiar interest to the United States, and peculiarly applicable to this case.

Liberia, like the states of Congo, was founded by private citizens united in a philanthropic association, under the name of the American Colonization Society, and it derived no authority from the Government. It remained from 1822 to 1876 under the protection of its founders, who during all this time continued to aid the young republic, by sending it some three millions of dollars and emigrants well provided with resources for their first establishment. The regulations adopted in 1839 for Liberia by the Colonization Society having led to certain impediments to commerce with other countries, the English Government, although sympathetic to the colony, protested, on the ground that Liberia being neither an independent state nor a dependence of the United States, England could not recognize in its authorities the right to levy taxes upon goods imported by British subjects. The administrative council of Liberia referred the matter to the Colonization Society, and asked to be permitted to constitute itself as an independent state, which was granted.

The question of the recognition of the rights and flag of the International Association would appear, therefore, to resolve itself into a question of *its* territorial rights. The Department has cognizance of seventy-nine treaties conveying to it concessions of territory with other sovereign rights by indigenous chiefs, and cannot but admit that any rights heretofore pertaining to those native princes, whether of sovereignty or possession, appear to have been duly ceded to the International Association. If such chiefs are capable of making a treaty with foreign states—and we have numerous instances where Great Britain and other powers have recognized and made treaties with uncivilized tribes—it fails to be apparent why such tribes may not equally make treaties with a philanthropic association, nor why the United States may not recognize such sovereign powers, and thereby secure protection for the legitimate enterprises of our citizens.

To resume: The stations and territory of the International Association appear to have local government. Their chiefs are chiefs of districts. They have made an agreement with native kings to form a union on certain conditions which have been carried out. What we might properly ask for, therefore, has been done. What is asked for by the International Association is not so much recognition of the governments of the stations and territories at this time, as that, in consequence of an exchange of declarations, its flag would be treated as a friendly flag. What exists on the Congo under the flag of the International Association, the settlements, the forces, the administrations, the agreements with the native chiefs, appear sufficient to justify and authorize such a recognition. The action, which has its center in Brussels (the headquarters of the International Association), does not appear necessarily an impediment; its action is provisional; it shares in the government of the territories only in their interest and behalf. Publicists generally agree that the International Association (a private association) has, as has been before shown, a full right to found free states. If the International Association has that right, it must also have the right of supporting its creation during a certain time. Various provisional governments have been recognized by us at different times without any care as to the detail of the laws which they had to make to achieve their constitution, or as to the place of their residence.

The International Association exists only for its stations. It has no commerce; it gives no dividends. It is part of their life until it dissolves into them, the future Free States of the Congo.

Should it be deemed advisable to take action in the matter of the opening of the Congo to American trade, it will be advisable to provide funds, that an agent of the Government may be sent there to watch events and to report.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

HON. JOHN T. MORGAN,
United States Senate.

1925 G STREET, Washington, March 24, 1884.

HON. JOHN T. MORGAN, U. S. S.:

DEAR SIR: In reply to your request for specific information as to the origin and objects of the International African Association, I have the honor to state that the African International Association owes its origin to the King of the Belgians, who, in 1876, convened a conference of distinguished African travelers of different national-

ties, at his palace, in Brussels, in September of that year, to devise the best means of opening up to civilization equatorial Africa. The result of this conference, which recommended the establishment of stations, provided for a permanent central organization and branch organizations in other countries, was the convoking a Commission or Congress, which met at the palace, in Brussels, in June, 1877, and at which delegates from Austria, Belgium, France, Germany, The Netherlands, Spain, Switzerland, and the United States were present. An executive committee—consisting of three representatives of the English-speaking, Germanic, and Latin races, in the persons of Henry S. Sanford, of Florida, Dr. Nachtigal (the African explorer), of Berlin, and M. de Quatrefages (of the Institute), of Paris, for these races respectively, under the presidency of the King—was confirmed. and the practical means of carrying out the objects of the association were discussed and determined upon.

These were, the organization of a branch in each of the various states of Europe and in America, which should aid in attracting attention to this work, and in founding "hospitable and scientific" stations, under the flag of the association, which flag it was determined should be a blue flag with a golden star in the center. It was also decided to commence the founding of these stations on the east coast, at Zanzibar, stretching over to the lakes.

An extract from the proceedings, defining what these stations, destined to form a chain of posts from ocean to ocean, should be, is given, as best explaining the purpose of the association.

"What a station should be.—The executive committee receives from the International Association entire liberty of action in the execution of the following general dispositions for the foundation of scientific and hospitable stations: The *personnel* of a station is to consist of a chief and a certain number of employés, chosen or accepted by the executive committee. The first care of the chief of a station should be to procure a suitable dwelling, and to utilize the resources of the country, in order that the station may be self-supporting.

"The scientific mission of a Station consists, in so far as it is practicable, in astronomical and meteorological observations; in the formation of collections in geology, botany, and zoology; in the mapping of the environs of the station; in the preparation of a vocabulary and grammar of the language of the country; in ethnological observations; in reporting the accounts of native travelers of the countries they have visited; and in keeping a journal of all events and observations worthy of notice.

"The hospitable mission of a station shall be, to receive all travelers whom the chief shall deem worthy; to provide them, at their cost at the place, with instruments, goods, and provisions, as well as guides and interpreters; to inform them as to the best routes to follow, and to transmit their correspondence. It will also be the duty of a station to insure as rapid and as regular communication as possible from post to post between the coast and the interior.

"One of the ulterior objects of the stations will be, by their civilizing influences, to suppress the slave-trade."

The result of this movement has been the opening up of a highway, so to say, from Zanzibar to Lake Tanganyika, mostly with capital furnished by the Belgians,* the last of the stations being at Karema, on the lake, two of the intermediary stations being founded respectively by the French and German branches of the association.

After Stanley discovered the Upper Congo, in 1877, a branch of the International Association was formed the year following for special work on the Congo, under the name of the Comité d'Études of the Upper Congo, but under the flag of the association, and special contributions for it were made by philanthropic friends of the association. This work, which the King of the Belgians has taken under his especial personal and financial protection, has developed to extraordinary proportions, and has had for practical result the opening up to civilizing influences and to the world's traffic this vast, populous, and fertile region, and securing certain destruction to the slave trade wherever its flag floats. The only practical difficulty in this wonderful progress proves to be an unrecognized flag, which is liable to be misunderstood or abused, and the people under it subjected to impediments in their philanthropic work on the part of those engaged in the slave trade, or for other selfish ends.

I have the honor to be, very respectfully, yours,

H. S. SANFORD,

Member of the Executive Committee of the International African Association.

[Extract from the report of L. de R. du Verge, United States consul at St. Paul de Loando, to the Department of State, of date July 7, 1883.]

TRADERS ON THE LOWER CONGO.

After having chosen a convenient location for one's affairs, the chiefs who are entitled to receive the duties or taxes are called; these taxes are in reality rents, as the negroes do not sell their lands, and do not give them up except for an annual or

* The subscriptions in Belgium alone the first year amounted to over \$80,000 (of which about \$25,000 annual subscriptions), by over 150,000 persons of all classes.

monthly payment. The tenant has a right to his land just so long as he pays his tax or rent, which consists, besides the payment of installation, also that of rations to the King, amounting to a gallon of rum and eight yards of cotton cloth at the end of every month, and the people that the King is obliged to supply and for whom he is responsible.

The people that the King is obliged to supply are: *Lingster* (translator), *Comprador* (purchaser), *Mafuca* (body servant), and four servants (*mocos*).

The duty of the *Lingster* in a factory is to attend to the payment of produce, serve as interpreter in communicating with the natives, and to keep his employer well informed with regard to the business done by his neighbors.

The *Comprador* serves to measure the produce, settle all difficulties arising from such measurements, and to withdraw from each measure the countage (tax) going to the King.

This countage consists of a plate of grain for every measure of the same; and about one or two gallons of oil to every measure of the same, which is set apart until there is sufficient to be measured when the King goes to receive it.

The *Mafuca* oversees the work of the servants and substitutes the interpreter in his absence; the *Mafuca* is not in duty bound, but he has a right to his pay all the same.

If one of these seven personages should for any reason whatever run away, the King is obliged to return him or replace him, if not, he loses all rights to his rations, taxes, &c., until he has replaced the runaway or paid the robbery, if the departure be in consequence of a robbery.

TRADE—RUNNERS (*cowedores*) EMPLOYED FOR THAT PURPOSE, AND THE ABUSES ARISING FROM THEIR USE.

The manners and customs which have been introduced by certain Europeans to the negroes have rendered it impossible to trade with the natives without the *cowedores*. These act as couriers who, for a certain payment, and furnished with a supply of gin and spirits, waylay the natives along the routes they take when bringing in produce for trade, conducting them to the employer's factory.

It often occurs that the negroes follow these *cowedores* of their own free will; but likewise it happens that when the negroes will not follow them, they bind them and oblige them to go to the house of their employers; or when the *cowedore* knows there is not a certain kind of goods at his factory, and conducts the negroes or trade to another merchant's factory, he is in like manner bound by the slaves of his employer; for although slavery is abolished, there is any quantity of it to be found, some in chains and others at liberty in the Portuguese houses, so that the *cowedore* becomes the slave of the white man, unless his family is willing to pay an exorbitant price for his liberty. These abuses and violences are very often the reason why the trade-route is often closed, as the natives, alarmed at the constant violence of the Kroboys straggling along the routes, who hinder their free circulation, have almost abandoned the Congo, and go to sell their produce where they can move about freely; or remain in their villages where they cultivate only what is requisite and sufficient for their families.

This is the reason why the Congo, on account of violence and injustice, from being one of the most productive rivers only about ten years ago, has become, comparatively speaking, completely abandoned by the natives.

The purchase of slaves continues at the values of £5 or £6 each, or when not to be bought they are obtained in the following manner: Any article or object whatever is laid aside, out of the way but within reach of the negro, who robs it at once, and, being taken in *flagrante delictu*, becomes at once a slave; if he is a person of importance and is claimed by his relatives, or by the chiefs of the village to which he belongs, he is sometimes given up in exchange for two or three slaves that substitute him, and lose thereby the liberty they enjoyed to become slaves in their village, put in chains, and there made to work under the lash and the rod.

Therefore, should any Government seriously wish to correct or avoid any further slavery in chains, bondage, and unjust punishments, and secure free trade, and that the Congo should again be productive to commerce, as it was about ten or fifteen years ago, the following must be attended to:

The *cowedores* are one of the principal causes of the lack of trade, for besides the payment which they receive, and which can be given to the native trader, they rob also the payments which they receive. Some houses have more than 200 *cowedores*. They receive a certain number of counters with numbers corresponding to the same numbers, with the name of the *cowedor* entered in a book expressly kept for the purpose at the *fetiche* (the place where the trade is paid and settled); the *cowedor* generally receives 20 markers or counters for each case of gin or demijohn of spirits. Each counter represents a measure.

The *cowedor* is present at the measuring and accompanies the native trader, who receives an order for every measure that he measures at the *fetiche*. The *cowedor* takes note of these orders, and sends a counter with each one, which is kept in a

drawer until the number is complete. If the negro has done much trade through the intervention of the *liugster*, who pays in the *fetiche*, he will rob so much per measure. If the white man does not consent to this robbery, the negro is equally robbed when passing through the village of the *cowedor*, and the *cowedor* pays himself by not giving an account of the goods which he received to attract trade, and goes to some other merchants. The *Kroboys* are immediately sent out on the different trade routes, when he is in a very short time taken and put in irons, and the chief of the village is made responsible for the *cowedor* and must pay for him; if the chief takes no notice of it, men or women belonging to the same village are tied and made to keep with the *cowedor*, who is in chains.

The king and chiefs of the village are likewise responsible for the *Kroboys* of the white man if any of them run away. For the simple reason of the *Kroboys* having passed through this or that village, although perfectly innocent, the inhabitants of that village are put in chains, as also the inhabitants of other villages through which the fugitive passed, and remain in chains until the *Kroman* is restituted, and until the villages through which he passed have paid for him.

This is the way affairs are carried on at present on the Congo, and how slaves are procured at a moderate price—proclaiming at the same time that slavery is abolished.

L. de R. du VERGE,
United States Consul.

UNITED STATES CONSULATE,
St. Paul de Loando, southwest coast of Africa, July 7, 1883.

LETTER OF LIEUTENANT DRAKE TO MR. LOW.

NAVAL ADVISORY BOARD, OFFICE OF INSPECTOR OF MATERIAL,
January 22, 1884.

DEAR SIR: Knowing the interest which you have in the development of our commercial relations all over the world, I therefore take the liberty of introducing myself, as one who has performed an active part in extending these relations by means of surveys within the confines of the dark continent.

I was attached to the United States steamship *Ticonderoga*, on her commercial cruise around the world, under the command of the present rear-admiral, R. W. Shufeldt, United States Navy, and while that vessel was on the west coast of Africa I made four expeditions into the interior, and mapped out several bodies of water hitherto comparatively unknown. I also wrote up the habits and customs of the numerous tribes adjacent thereto, their alliances, their advancement in the arts and sciences, their manner of traffic, and the products of the soil, together with exports and imports.

Having read in the New York Herald of recent date, the action taken by your honorable body, as set forth in a series of resolutions adopted, relative to the future interests and commercial trade of the Congo, and the auspices under which said trade should be conducted, therefore, I beg leave to lay before you some of the physical characteristics of this rapidly growing section, which have come under my own personal observations during the short time which was allotted to me for ascending this body of water.

In my reconnaissance of the Congo from its mouth to Puerto da Lenha, in 1879, I examined both banks of the river, especially the southern, which is thickly infested with piratical tribes, offshoots of the Musurongos. I found that they respect the rights and privileges of others just as long as they know that an armed force is at hand to administer punishment for offences committed.

The Mantombes and Sonyos, who live to the southward of the Musurongos, are given to commercial pursuits, and form the nucleus which brings the products of the interior to Quilosango, the solitary Portuguese trading post, 25 miles from the mouth of the river, situated on its south bank.

Friendly tribes occupy the north bank, the chiefs of which furnish the different trading posts with negro help, for which an equivalent is received in so many yards of goods, pounds of powder, &c.

At Quilosango the Portuguese traders, who, by the way, had lived there six years up to the time of my visit, informed me that the lawlessness of the Musurongos between Quilosango and the mouth of the river was a great barrier to lucrative trade with the interior tribes, as the caravans of the latter were frequently set upon and pillaged by the former when returning to their homes from this quarter. Until these pirates are subdued and made to realize the full force of an armed power backing its commercial relations upon this portion of the Congo, just so long will the revenue, which could be realized from the rich districts lying to the southward, be held in check.

At Puerto da Lenha, the Dutch, French, English, and Portuguese have large factories established, and carry on a thriving trade.

The Dutch, however, are in the ascendancy, as they control the navigable portion of the Congo from its mouth to the first rapids above Boma, which arises from the fact that the only line of steamers run upon the river, at that time, in the interest of trade, was the property of the Afrikaansche Handelsvereniging Company. They exercise a powerful influence over the adjacent tribes, through skillful management and frequent dashes to the chiefs.

This influence has, undoubtedly, grown stronger with the succeeding years, and most probably is still having its effect upon the trade interest of this section.

The following statistics of exports and imports by this company for the year 1879, may be of interest to you (I copy from my journal):

EXPORTS.

Ivory, 405 tons.....	\$1, 620, 000
Palm oil, 2,800 tons.....	2, 240, 000
Sesamum seed, 2,400 tons.....	144, 000
Ground nuts, 13,200 tons.....	202, 000
Palm kernels, 2,100.....	105, 000
Rubber, 2,600 tons.....	130, 000
Gum copal, 400 tons.....	300, 000
Orcin, 100 tons.....	15, 000
	<hr/>
	4, 756, 000

IMPORTS.

American cotton piece goods.....	\$260, 000
English cotton and flannel.....	690, 000
Rum, gin, &c. (Germany).....	180, 000
Tobacco (American).....	72, 000
Gum (English).....	105, 000
Powder (English).....	30, 000
Brass, rods, rings, &c.....	75, 000
Metal, pots, pans, &c.....	25, 000
	<hr/>
	1, 437, 000

No money is used in this trade, nor is there any money in circulation on the river. The business is conducted entirely upon the barter system.

The percentage on money invested seldom falls short of 300, and frequently runs as high as 400, per cent. The most is made on liquor, and the demand for that article increases from year to year. The bad quality supplied is plainly telling on the negro race, but business cannot be successfully transacted on this coast of Africa without this necessary article.

I found, also, that it will be necessary to make new surveys of the river throughout its navigable waters, from its mouth to the first rapids. Several islets have sprung up which are not marked on the latest issue of charts. These, and the several changes in the deep-water channel above Banana, as well as the bars at the mouth of the Congo, are the results of scourings from the numerous tributaries and the deposits from the floating islands which pass down the Congo in the latter part of the rainy season.

Upon examination I found these islands to be apparently the result of subsurface scourings, in which the under stratas of loam, clay, and gravel are washed out, leaving the body-soil held securely intact by a network of the roots of the trees and vines which covered its surface.

One of these islands which I measured had an area of over six acres, was thickly wooded, and covered with a luxuriant growth of tropical vegetation, still inhabited with its animal life, floating silently and majestically to sea.

Trusting that your forbearance will overlook this somewhat lengthy document, and that it may please you to acknowledge the receipt of the same at your pleasure, I will not weary you longer, but state that I am at present the Government inspector of material for the new cruisers at the Norway Steel and Iron Company's Works, South Boston, Mass. My address is No. 32 E. Brookline street, Boston.

I remain, very truly, your obedient servant,

F. J. DRAKE,
Lieutenant, U. S. N., Inspector of Material.

Hon. SETH LOW,
Mayor of Brooklyn, N. Y.

ARGUMENTS OF SIR TRAVERS TWISS.

[From the Law Magazine and Review, No. CCL.—November, 1883.]

AN INTERNATIONAL PROTECTORATE OF THE CONGO RIVER.

The question of the Congo, in other words, the question of the free navigation of the great arterial river of Equatorial Africa, has acquired in the present day an unforeseen importance, which was not dreamt of in the last century, when the only value of the river was that its northern bank supplied a famous market and a convenient port of shipment to the African slave-dealer. The discoveries, however, of Livingstone and of Stanley have revealed to the world the fact that the Congo is the great channel of water communication between the Atlantic Ocean and the immense basin of Equatorial Africa, and that the cataracts, which have hitherto barred access from the sea to its upper waters, have providentially served to arrest the advance of the white slave-dealer into the interior of the continent, and have so far prevented the natives from regarding the white man with merited aversion. English enterprise, however, with good intentions toward the natives, had endeavored in vain, so recently as in 1857, to force a way from the sea by tracking boats through the troubled waters of the rapids, against which the canoe of the native had failed to make any headway, but the Falls of Yellala presented an insuperable obstacle to the further advance of the boats, and it was not until Mr. Stanley, descending from the interior of Africa, arrived at Boma, on the north bank of the river, on 8th August, 1877, that it became known that beyond the Falls of Yellala the river was again navigable, and was in fact identical with the Lualaba, which Livingstone had discovered in the interior of Africa and had partially explored. The consequence of this identification of the Congo with the Lualaba may be said to baffle calculation as regards its bearings upon the future intercourse of Europe with the interior of Africa, and it may be fitly an object of serious consideration on the part of the European governments how best to prevent the inroad of European civilization, which has now become inevitable through the channel of the Congo, from proving itself to be a curse instead of a blessing to the native populations of Central Africa. The white man, it cannot be denied, owes some compensation to the posterity of those whose ancestors of olden time so cruelly wronged by carrying them away from their native country and selling them into slavery in a foreign land, and it would well become the Christian States of Europe and of America to concert amongst themselves measures which should prevent a work of so much promise, as that which has been successfully inaugurated by private enterprise, from suffering shipwreck through any rivalry or dissensions amongst the white men themselves.

Before the first appearance of Stanley at Boma, in 1877, the Congo had already the reputation of being the fourth in magnitude of the African rivers. It has a noble estuary extending from Red Point on the north, which is a little to the south of Kabenda Bay, to Cape Padron on the south, so called from a stone pillar reported to have been set up by Diogo Cam in 1484 to mark the discovery by the Portuguese of a river, then called by the natives "the Zaire." The entrance, however, of the river itself may be said to commence at about 9 miles to the eastward of a line drawn from Red Point to Cape Padron, where the channel is narrowed to 6 miles, between French Point to the north and Shark Point to the south, which latter point is about 6 miles to the eastward of Cape Padron. French Point is the southern termination of a narrow spit of land on the northern side of the estuary, about 2 miles long, known as the Banana peninsula, being the southwestern extremity of an opening leading to Banana Creek and to Pirate's Creek, the latter of which creeks is the outlet of a branch of the Congo, communicating with the Monpanga Islands. To the eastward of Pirate's Creek is Boolambemba Point, abreast of which the river is narrowed to $3\frac{1}{2}$ miles; and several writers, in their account of the entrance of the Congo River, have erroneously described this point and Shark Point as the boundary points of its mouth. On the north shore the current of Boolambemba Point is both strong and deep, whilst along the south shore from Shark Point the soundings are tolerably regular, and the anchorage is safe but unhealthy. Boolambemba Point is also known by the name of Fathomless Point, from the circumstance that at the distance of a third of a mile from the land no bottom was found with 93 fathoms of line. It must not, however, be supposed that the fathomless character of the stream in this locality is solely occasioned by the excessive depth of its bed, inasmuch as the river brings down with it such an immense volume of water, that in some places no bottom has been found with 200 fathoms of line, and the volume of water shoots out in an unbroken stream into the Atlantic Ocean with a velocity varying from 4 to 8 miles an hour. Further, at the distance of 9 miles seaward, its waters are still fresh, and at the distance of 40 miles they are only partially mingled with those of the sea, whilst the discoloration of the sea-water has been visible 300 miles off. The Congo, it will thus be seen, is a very different river from the Niger, the next great river on the west coast of Africa, which has a delta with 22 mouths. The extreme rise of the river in the rainy season, which begins early in November and continues until the middle of April, is about 9 feet

above its ordinary level. The stream during this period is very rapid, and carries out to sea floating islands formed of the roots of various kinds of plants and covered with bamboo and grass; and as some of these islands are reported to be more than 100 yards in length, they are a source of danger to ships under way, and more especially to ships at anchor. Such are the somewhat inhospitable conditions of the entrance of this mighty river, which was formerly frequented almost exclusively by the European slave-dealer. The steamship, however, enables the mariner of the present day to overcome the difficulties of the ascent of the Lower Congo, which were so formidable to the sailing ship. There are, however, some dangers still attending its navigation, which can only be effectively controlled through an international concert amongst the Christian powers whose subjects frequent the river.

As we ascend the river from Boolambemba Point, the northern shore is low and unattractive to the eye, until Bull Island comes in sight at the distance of about 11 miles, above which there are several inlets or creeks hitherto unexplored, but studded with villages. After passing these and at about 12 or 13 miles above Bull Island the explorer arrives at Puerto da Lenha, on the northern shore of the river, where the deep-water channel ceases. This was the principal station in former days where the slave ships were brought up, and where the slaves which had been purchased at Boma and had been brought down the river in boats were shipped for the outward voyage. There are Dutch, Portuguese, English, and French factories here established, the great Dutch Company having two factories, and having of late enjoyed almost a monopoly of commerce with the natives. The river may be said to be open all the way to Puerto da Lenha, and a fresh sea breeze sets in generally at noon, so that the anchorage is considered the healthiest position on the river. Above Puerto da Lenha the river divides into three branches, which are separated from one another by a number of islands, the northernmost branch being named the Maxwell River or the Noangwa, the middle branch being the Mamballa River or the Nsibul, which is the most direct route to Boma, whilst the southernmost channel is known as the Souho, and is winding and intricate, but it has the greatest depth of water and has a soft sandy bottom, so that a vessel grounding on it suffers little inconvenience beyond waiting for the return of the high tide to float her off again. At last the explorer reaches Boma, about thirty-one miles above Puerto da Lenha. Here is said to have been formerly the greatest slave-market in the world. The town extends *several miles* along the bank of the river, and it is *delightfully situated* in the midst of a picturesque and mountainous country. It enjoys a dry and healthful atmosphere, and is destined, we may hope, to become a central entrepôt of innocent trade between Europe and the interior of Southwest Africa. Here was formerly the utmost limit to the navigation of the Lower Congo, before the steamers under the flag of the *Association Internationale Africaine* were launched upon its waters. They are able to breast effectively the current, which increases in swiftness above Boma, and can ascend as far as Vivi, the first station established by Stanley on behalf of the *Comité d'Etudes du Haut Congo*. *Vivi may thus be regarded as the portal of a new country, which the researches of Stanley have thrown open to the European traveler, who is sure to be followed by the merchant, and the question will of necessity arise, as to what law shall be binding on the European merchant who frequents the river, and to what jurisdiction he shall be amenable if he disobeys that law.* A difficulty on this subject has already arisen on the Lower Congo, where it may be justly said that each man sets law unto himself, for no European Government exercises an acknowledged jurisdiction over the river or its banks, and when crimes have been committed the extemporized judges have had to take upon themselves also the duty of executioners, and the sense of their own weakness has led them in the interest of self-preservation to have recourse sometimes to measures of severity, which a constituted authority might not think it necessary to adopt. Vivi, the first station established by Mr. Stanley, in 1879, is at the distance of about 115 miles from the sea, and it would seem that already within three years since it has been founded some dozen trading stations have been opened between it and Boma. Above Vivi the river makes a turn to the north, and in following it we arrive at the Falls of Yellala, where the river ceases to be navigable, and continues so for about fifty miles as far as the *Cataract of Isanghila*, where Stanley has established a *second station*, which is connected with Vivi by a road overland. Above Isanghila the river becomes again navigable for a distance of about eighty miles, at the termination of which Stanley has built a *third station*, and named it *Manyanga*. Here the traveler must again leave the river and proceed by land to Stanley Pool, to which station Stanley has constructed a road practicable for caravans. Up to this point the *Comité d'Etudes du Haut Congo* has established its stations upon the right or northern bank of the river, but when Stanley, in ascending the river, in 1881, arrived at Stanley Pool, he found that M. de Brazza, who had ascended the Ogôné River from the French possessions on the Atlantic coast, some degrees to the north of the Congo, after having worked his way through an unknown country during a journey of about eighteen months, had struck the Congo at Stanley Pool. Further it appeared that M. de Brazza had concluded a treaty with an agent of Makoko, king of the Batikes

of the Congo, under which the latter had ceded to him the territory on the northern shore of the lake for the establishment of a French station. Mr. Stanley accordingly crossed over to the southern shore, on which, in pursuance of an agreement with all the neighboring chiefs, he has built a fourth station and called it Léopoldville. It would seem from the text of M. de Brazza's convention, of which a fac simile has been published by the Société de Géographie in Paris, as an accompaniment to M. de Brazza's narrative of his expedition, that King Makoko, whose death has recently been reported, claimed to exercise a kind of suzerainty over the chiefs who were in possession of the north shore of Stanley Pool, and that two of them gave their adhesion to and were witnesses to the convention above-mentioned by subscribing their marks to it.*

Early in the next following year Stanley established a fifth station at Ibaka, at the confluence of the Quango with the Congo, at the distance of about 100 miles above Léopoldville, from which place the Congo had become once more navigable, and has hitherto been found to be free from all physical obstructions. It would thus appear that the Congo River, as now revealed to us by the researches of Stanley, may be regarded as divisible into three well distinguished portions. The Lower Congo, extending from the sea to the Falls of Yellala; this portion is throughout navigable by steamers of light draught, and, as a matter of fact, two steamers, owned by the Association Internationale Africaine, and named respectively the *Belgique* and the *Espérance*, are at the present time regularly running between Banana and Vivi. The Middle Congo may be said to extend from the Falls of Yellala to Stanley Pool, and upon a portion of this, namely, between Isanghila and Manyanga, the steamer *Royal*, owned by the same association, now plies. The Upper Congo, on the other hand, leads from the waters of Stanley Pool into the center of the African continent, and upon this portion of the river a steamer was launched on 3d December, 1881, under the auspicious name of *Forward* (En avant). It is computed that this vessel will have an open course before it of 940 miles leading into the very center of the African continent. Stanley's fifth station has been established at Ibaka, where the waters of the Quango join those of the Congo. I have mentioned these five leading stations as being those which Stanley had established in the course of 1881 and 1882, since which time, however, various auxiliary stations have been formed, *Lutété*, for instance, and *Ngoma*, between Manyanga and Léopoldville, and both of these new stations are in very fertile districts. *Kimpopo*, also a new station, established at the northern end of Stanley Pool, is in a food district much richer than that which was selected for the parent station of Léopoldville. *Msuata* is a fourth auxiliary station established a little to the south of the point where the Quango joins the Congo. A sixth station may also be mentioned, which is a main station on the Congo, and is named *Bolobo*, about a hundred miles above Ibaka. Other stations have probably been established before the present time. The number of those which I have mentioned will serve to show how rapid has been already the advance of the European into the interior of Africa in the footsteps of Stanley, and how desirable it will be to maintain the novel conditions of peaceful intercourse, under which the white man has found a welcome amongst the various native tribes.

M. Émile de Laveleye, the distinguished economist and jurist, has suggested in an article in *La Revue de Droit International*, that the River Congo shall be neutralized, or that at least the stations founded upon it by the joint enterprise of the "Association Internationale Africaine," and the *Comité d'Etudes du Haut Congo*, should by a common accord of nations be recognized as neutral territory in the general interests of civilization and of humanity. The alternative proposals thus advocated by so eminent an authority are by no means of equal import, inasmuch as the neutralization of the Lower Congo in the acceptance of the term "neutralization," as applied in modern days to inland waters in distinction from the high sea, would operate to prohibit access to the river within its headlands to the armed vessels of every state. But such a prohibition, it is to be feared, would, in its results, prove to be an encouragement to the piratical tribes at the mouth of the river.

So recently as in 1875 the British commodore, Sir William Hewett, had occasion to land a party of marines at the mouth of the Congo, and to punish the authors of the destruction of the English ship *Geraldine* and of the massacre of her crew; and in the sailing directions for the west coast of Africa, published by order of the lords commissioners of the admiralty of England, there is inserted the following caution: "The Missolonges, a tribe inhabiting the creeks about Boolambemba and Bull Island, are very savage, and frequently attack merchant vessels and boats proceeding up the river without an escort. Their object is plunder, but they do not hesitate to commit murder if opposed. Vessels, therefore, proceeding to Puerto da Lenha should, if possible, obtain the protection of armed boats from any men-of-war in the vicinity."

* The concluding words of the convention are as follows: Par l'envoi à Makoko de ce document, fait en triple et revêtu de ma signature et du signe des chefs, ses vassaux, je donne à Makoko acte de ma prise de possession de cette partie de son territoire pour l'établissement d'une station française.

Further, it must be borne in mind that the slave trade was kept up on the banks of the river as late as 1875, when an English expedition dealt the slave dealing tribes what is to be hoped may prove to be a death-blow to their trade. On the other hand, from "The correspondence respecting the territory on the west coast of Africa, lying between 5° 12' and 8° of south latitude, presented to the British Parliament in the course of the present year" (Africa, No. 2, 1883), it appears that the trading factories on the north bank of the Congo, with the exception of the English, are more or less worked by slave labor; and the British consul at Loanda reported to the Earl of Derby that all the houses on the Congo hold slaves, more or less, and would not hesitate to export them if they could find a market for them. If it be assumed that "public opinion" on the Congo has improved since 1877 with regard to the mode in which the European trader looks upon the native, it can hardly be doubted that what is wanted at the present time is not the exclusion of the armed ships of all nations from the waters of the Congo, but rather the continual presence of an armed ship of one or other of the nations, whose subjects have factories on its banks, whose commander should be authorized to maintain an international police over the river, in virtue of the admiralty jurisdiction exercisable by all nations over waters which are within the flux and reflux of the tide.

It has been further suggested by more than one eminent authority that if the proposal to neutralize the water of the Congo should prove to be inadmissible in the opinion of European governments an international control over its waters might be established analogous to that which the great powers have concerted in respect of the mouths of the Danube. Portugal, however, might be disposed to object to the institution of an international commission for that purpose, as being a derogation from her asserted rights of sovereignty over the river and its headlands; but even if Portugal were to agree to the establishment of such an international commission it would not be by itself adequate to satisfy the present requirements, and much less the future requirements of the Congo River. A dispatch of Consul Hopkins, addressed in 1877 to the Earl of Derby, then Her Majesty's secretary of state for foreign affairs, concludes with the following statement:

"All the white men in the tract of country lying between the northern boundary of Angola and the southern boundary of the Gaboon consider there is no law; they are not responsible to any Government for their actions, and they do just what they please." This dispatch is dated from Loanda, the capital of Angola, and the residence of the governor-general of the Portuguese settlements on the west coast of Africa to the south of the Congo. (Parliamentary Paper, Africa, No. 2, 1883, p. 81.)

I have alluded to certain rights of sovereignty which Portugal has asserted over the Congo River and its headlands, and that her pretensions to such sovereignty might create on her part an indisposition to assent to the establishment of an international riverain commission over the Congo, analogous to that which the European powers have concerted in the case of the Danube. England, however, has strenuously contested and opposed the pretensions of Portugal to any such sovereignty, nor can it be successfully contended that England has recognized any such rights of sovereignty under the treaty of alliance between England and Portugal, concluded at Rio de Janeiro on 9th February, 1810, nor under the treaty for the abolition of slavery signed at Vienna on 22d January, 1815, nor in the additional convention of July, 1817, although eminent Portuguese authorities have contended for such an interpretation of those treaties. It may be admitted, indeed, that Portugal under those treaties has recorded her pretensions to the territories of Kabenda and Malemba to the north of the Congo, but on the other hand she has placed on record the fact that those territories were at that time not in the occupation of the Portuguese Crown. But it is hardly reasonable for Portugal to insist, in the present day, upon rights of sovereignty over the river Congo in virtue of priority of discovery four centuries ago, when she has virtually renounced all rights of sovereignty north of Cape Padron under a declaration annexed to the treaty of Tordo, or as it is more usually termed the treaty of Madrid of 1766, concluded, under the mediation of Spain, between France and Portugal. That declaration placed on record the fact that Portugal limited, at that time, her assertion of rights of sovereignty to the territory south of the river Zaire, whilst she acknowledged the right of France, equally with Holland and Great Britain, to trade freely with the coast north of that river. It is worthy of note that in that declaration the *right* of France to trade with the people of the coast to the north of the Congo is contrasted with the *liberty* to trade with the people of the coast as far south as Anbriz and Massaula, if such liberty was enjoyed by the English and the Dutch. It should be borne in mind, by any person who may peruse this treaty, of which the text is set out in Martens's "Recueil des Traités," vol. iv, p. 104, that the river is there described by its native name of Zaire, and that the term "*Congo*" is used to signify the territory to the south of the river. This remark may serve to explain a passage in the treaty which is, at first sight, obscure, and has embarrassed several persons, where it speaks of the country "east-northeast of Congo." I do not propose, on this occasion, to enter into any discussion of the claims of Portugal to sovereignty over the coast to the south of the river Zaire. England has formally put on record, in 1846,

her objection to that claim, and has refused to recognize any right of absolute dominion on the part of Portugal over the coast to the north of the port of Ambriz, which is situated in $7^{\circ} 52'$ south latitude. My object in alluding to the controversy which exists at the present time as to the pretensions of Portugal to exercise rights of sovereignty over the coast of West Africa to the northward of Ambriz has been by no means to disparage her pretensions, but rather to show that they may give rise to diplomatic difficulties on her part, if the European powers, whose subjects are interested in the navigation of the Congo, should be disposed to concert an international protectorate of the river.

On the other hand, the claims of Portugal to a kind of suzerainty over the south bank of the Lower Congo rest upon other considerations than the discovery of the mouth of the river by Diogo Cam in 1484. Portugal appears to have exercised from time to time a protectorate over the "Mani-Congo" or King of Congo, and latterly to have clothed her protectorate with the character of suzerainty, by exacting from the king at the time of his accession an act of homage and an oath of fealty to the Crown of Portugal. It has been contended also that the suzerainty extends at the present time over the chiefs of Kabenda and Malemba on the coast to the north of the Congo River, by reason of those chiefs having paid tribute to the King of Congo, when he was independent of Portugal. On the other hand, it may be said that when the King of Congo acknowledged himself to be a vassal of the Crown of Portugal,* he simply placed his own territory under the suzerainty of the Crown of Portugal, and by abdicating his independence forfeited his own claim of suzerainty over any neighboring chiefs who would not become the vassals of the Portuguese Crown, unless they also in their turn did homage and took the oath of fealty to it. Besides, there is no doubt that if Portugal is entitled to regard the King of Congo as her vassal, his ancestors became vassals of the Crown of Portugal long prior to the treaty of Madrid of 1786; but Portugal in that treaty made no claim of suzerainty over Kabenda and Malemba, when she recognized the right of France and England and Holland to trade freely with the people of the coast north of the Congo River.

The question of an international protectorate would be much simplified if Portugal should be disposed to confine her pretensions to rights of suzerainty over the territory immediately subject in former days to the King of Congo, as such a right of Suzerainty would not conflict with the treaties for the suppression of the slave-trade, which England has concluded with the *Chief of Kabenda* and with the various chiefs and headmen of the Congo River at intervals between 1854 and 1876.† If Portugal exercised at such time a direct sovereignty over both banks of the river, those treaties would be waste paper, but their validity would not be impeached by England's recognition of Portugal's suzerainty over Congo proper. What seems to be desirable under present circumstances is, that the European states whose subjects have factories on the banks of the Congo should establish by a common concert an international protectorate of the Lower Congo. Ever since the congress of Vienna of 1815 proclaimed the liberty of the navigation of the great arterial rivers of Europe, and at the same time condemned the African slave-trade to a slow but certain extinction, Europe has hesitated, wisely it may be said, to apply to the great arterial rivers of Africa the same principle of public law which she has successfully applied to the Rhine and to the Danube, until the slave-trade has become extinct. The time has now arrived when Europe may feel called upon to engraft the same principles of public law upon the institutions of a sister continent as may have been found to work well in Europe. It may be necessary, however, to supplement them with certain further provisions which the circumstances of the Congo River render imperative. The organization of the native races on the banks of the Congo is still *tribal*, and *territorial* sovereignty in the sense in which it has superseded *personal* sovereignty in Europe is still unknown. *Personal* sovereignty, however, is recognized by the European traders on the Congo, and each factory hoists the flag of the nation from which the trader holds himself to be entitled to claim protection if he should be wronged by a native chief or by a trader of another European nationality. We have here then an element of order and it deserves the careful consideration of the European Governments whether they should not take advantage of it before disorder becomes rampant amongst the crowds who are sure to throng before long in the interests of commerce the channel which leads into the heart of Central Africa. If certain powers should agree as to the establishment of an international commission of the Congo River, after the example of the Commission of the Danube, they might invite

*Alfonso I, the first Christian ruler of Congo, is said to have recognized the King of Portugal as suzerain by letter in 1512, but the same king had previously recognized Pope Paul III as his lord and suzerain in 1500.

†So recently as in March, 1876, Great Britain has concluded treaties with the principal chiefs holding authority on the south bank of the Congo River, for the abolition of the traffic in slaves; for the prevention of human sacrifices; for the encouragement of lawful commerce; for the protection of all white traders, more particularly British; and for the punishment of all pirates and disturbers of the peace and good order of the river. (Appendix to Parliamentary Paper, Africa, No. 2, 1883.)

the other powers to accede to it, and they might safely advance a step further. Personal sovereignty, if effectively brought into play, would be an obvious remedy for the state of "wrong and unlaw" which exists at present on the Lower Congo. The same States, which are disposed to consent to an International Riverain Commission, may come to a further understanding that *each State shall authorize its commissioner to exercise consular jurisdiction on its behalf over the subjects of the State which he represents.* The delivery of an *exequatur* would not be a necessary condition for such consuls to take upon themselves the exercise of their jurisdiction over their fellow subjects, inasmuch as the *raison d'être* of an *exequatur* would not exist where there has been no recognition of a territorial sovereign, and the *judge consul* is an institution of an age when the theory of territorial sovereignty had not as yet superseded in Europe that of personal sovereignty.

The international organization of the Middle and the Upper Congo is a more difficult problem, inasmuch as the materials for such an organization, which are ready at hand on the Lower Congo, do not at present exist after you ascend the river above the Falls of Yellala, although France has already evinced an interest in the question by acquiring a grant of land on the northern shore of Stanley Pool for the establishment of a French station. We cannot but hope that the friends of the *Comité d'Etudes du Haut Congo* have suffered unnecessary alarm at the hoisting of the French flag over the station of Brazzaville. The same flag floats over the French factories on the Banana Peninsula and at Boma on the Lower Congo, and there are no words in the convention of 3d October, 1880,* between M. Savorgnan de Brazza on the one part, and King Makoko, Suzerain of the Batakés, and his chiefs, on the other part, which imply anything more than the cession to M. de Brazza of the usufruct of the territory, which extends from the river of Ina to Impila, for the establishment of a French station at Neouna. However this may be, the question as to what law the European merchants, who may frequent the upper waters of the Congo, and who may establish trading factories here and there on its banks, shall consider themselves to owe obedience, and to what magistrates they shall be responsible, awaits solution. It would be well, indeed, if the powers who may agree to establish an international commission on the Lower Congo, and to empower their respective commissioners to exercise consular jurisdiction over their fellow-citizens on the lower waters, should extend the personal jurisdiction of their consuls over their fellow-citizens on the upper waters. Still further, it would be much to be desired if the same powers should at the commencement of their deliberations agree to draw up and sign a declaration of disinterestedness as regards the upper waters of the Congo. The signature of such a declaration was adopted for the first time, as a preliminary to an international accord, in the protocol to the triple treaty of London, of July 6, 1827, when Russia, France, and Great Britain entered into an alliance to bring about the independence of Greece. It has been frequently adopted since that time by the European powers as a preliminary to their conferences for the settlement of political difficulties in Asia and in Northern Africa. The experience of half a century may thus be invoked in favor of such an international act, which, in the present moment, would allay all apprehension of a coming struggle amongst the European nationalities for the control of nature's highway into Central Africa. The authority of a suzerain power is not requisite to give validity to such an arrangement amongst the Christian powers. It would be an international accord worthy indeed of the civilization of our epoch, and might arrest at once the further growth of any nascent difficulty.

TRAVERS TWISS.

TEMPLE, 16 August, 1883.

POSTSCRIPT.—A few further observations may not be out of place in explanation of the term "international protectorate," which I have adopted as descriptive of the functions of the international commission, which it may be advisable for the powers interested in the navigation of the Congo River to establish by a common concert amongst themselves, and to which the other powers may be invited to accede. The term "protectorate" is a term of very varied import, and it has fallen somewhat into disrepute of late from its employment in treaties, where the protecting power has had in view the establishment of a "veiled sovereignty" over another state. Protectorates of this class are in the nature of unequal alliances *cum diminutione imperii*, and the protected state in such cases, if it has agreed to hold intercourse with other states only through the medium of the protecting power, has become virtually a dependency of such power, although it may not have contemplated such a result when

* This convention is distinguishable from an earlier convention which purports to have been concluded on September 10, 1880, between M. de Brazza and King Makoko, at Ndao, under which King Makoko has ratified a cession of territory on the Lefini, made by [a chief named] Ngampey, for the establishment of a French factory, and has ceded to France his hereditary rights of supremacy over it. Both conventions are printed in the French *Journal Officiel* of 3d December, 1882.

it entered into treaty engagements with it. It is obvious, however, that there is no analogy between such protectorates and the international protectorate, which it is proposed to establish in the case of the Congo River. It is in the nature of things that an international protectorate, in which several powers are associated on terms of equality, cannot have in view any scheme of "veiled sovereignty" on the part of one state over another state, although in the case of the Congo River it may have in view the exercise of a common authority on the part of the protecting powers in the interest of the peace of the river, analogous to that which all nations in common exercise over the high seas in the interest of their peaceable navigation. The highway of nations is in fact under the common protection of all the maritime powers, and it is in this sense of the term "protection" that it is desirable that the phrase "international protectorate" should find a place in the vocabulary of international jurisprudence, as signifying in the case of a great arterial river that its navigation is under the common protection of the powers whose subjects have establishments on its banks. Such a protectorate being in the interest of all the states whose subjects may make use of the waters of the river, will on that ground have just claims to general recognition, nor will it be open to the suspicion which attaches deservedly to single state protectorates.

With regard to the neutralization of the Lower Congo, which is the only portion of the river directly accessible to sea-going vessels, the term "neutralization" has also become a term of ambiguous import in consequence of its application to the waters of the Black Sea, under the provisions of the treaty of Paris of 1856. The exigencies of diplomacy on that occasion may have warranted a strained interpretation of the word "neutralization" in the sense of prohibiting the use of the waters of the Black Sea to the armed ships of every nation, even in time of peace. It would be very desirable if henceforth the phrase "neutral waters" should be exclusively used to denote waters in which no act of belligerency is permissible. Further, it has been well said by M. Moynier, the president of the Red Cross Association, in a memoir read by him before the Institute of International Law during its last session, at Munich: "On a beaucoup parlé de neutralizer le Congo, mais en réalité l'état de choses, que l'on caractérise en droit international par le mot 'neutralité,' n'est nullement ce à quoi l'on aspire. Cette expression n'a de sens que par antithèse, et là, où il n'y a pas de belligérants, il n'y a pas de neutres. Or, on envisage ici l'état de paix." At the same time it cannot well be denied that it would be very desirable that the powers who may agree upon the establishment of an international commission for the Congo River should agree, in accordance with the precedent submitted by Earl Granville to the acceptance of the European powers in the case of the Suez Canal (Parliamentary Paper, Egypt, No. 2, 1883), that no hostilities should at any time take place in the Congo River nor in its approaches. The Institute of International Law, before which the question of the Congo came under discussion at its last session above referred to, was unwilling to pronounce categorically an opinion on all the conclusions presented to it. The Institute, however, resolved to authorize its bureau to transmit to the different powers the expression of its wish, that the principle of the freedom of its navigation for all nations should be applied to the Congo River and its affluents, and that all the powers should come to an understanding as to the measures proper to prevent conflicts between civilized nations in Equatorial Africa.*

T. T.

6th October, 1883.

[From the Revue de Droit International.]

THE FREE NAVIGATION OF THE CONGO.

BY SIR TRAVERS TWISS.

The Congress of Vienna inaugurated a new era in the reciprocal relations of European states, by laying down the principle that these relations should be subordinated to the interests of the European community in case of conflict between the individual interests of the states and that which is just in an international point of view. It is a fact, which is apparent to every attentive observer of the great political evolutions of our century, that it is more and more perceived that the community of nations create obligations towards it, and that the empire of this community over the States which form part of it has several times obtained formal sanction by means of confer-

* "L'Institut de Droit International exprime le vœu que le principe de la liberté de navigation pour toutes les nations soit appliqué au fleuve de Congo et à ses affluents, et que toutes les puissances s'entendent sur des mesures propres à prévenir les conflits entre nations civilisées dans l'Afrique Équatoriale."

ences, whose protocols point out to us the considerations which dominated their counsels. These protocols form declarations, of which all the participants are the sureties. We are proud of modern civilization. We congratulate ourselves upon the progress of international law among civilized nations. We are, therefore, justified, it seems to me, in asking of the states which participate in the European concert of public law, whether it would not be possible to assert this principle of duty towards the community of states as a means of solving the question of the Congo, without awaiting the stern necessity of intervening to put an end to war, or, at the least, the occasion of offering mediation to avert a recourse to the sad arbitrament of the sword. The Congo question is in the condition of a young tropical plant, whose germ has not yet commenced to develop, but which will perhaps assume suddenly unexpected proportions.

I have already treated of the free navigation of the Lower Congo, but I have omitted, or at least only glanced at the idea of an international protectorate, under the *agis* of which a *modus vivendi* could be established upon a solid basis of stipulated right, among the diverse nationalities whose flags float over the factories of Banana Creek, at the entrance of the Congo, and thus proclaim the cosmopolitan character of the settlement. Ascending the channel of the river, Ponto da Lenha is reached, where a *pentarchy*, so to say, of European flags equally affirms the cosmopolitan character of the port, and gives notification that the individual interests which prevail there rest under the protection of five states. Formerly, a common end, the slave-trade, was the only bond which united those diverse nationalities in a kind of commercial fraternity. To-day there exists between them a law of usage, intended to regulate their common interests; but this usage leaves much to be desired, and it does not control the private life of the residents of each factory, who are free to regulate, according to their own pleasure, their relations with the natives. In fact, there does not exist social order, properly so called, among the factories; there is no collective will among their members, no authority which they are bound to obey, and one may say, "*Ubi nulla societas, ibi nullum jus.*" The sad truth of this axiom is confirmed by the stories of frightful cruelties committed upon the natives in the year 1877, an account of which can be found in the dispatches of the English consuls to their Government. (Parliamentary Papers, Africa, No. 2, 18-3.)

M. Moynier, president of the international committee of the Red Cross, at Geneva, called the attention of the Institute of International law, during its last session at Munich, to the question of the Congo, and the readers of the *Review* will remember the proposition which M. Emile de Laveleye developed thereupon (pp. 254-262), asking, in the interests of humanity, that the waters of the Congo should be neutralized by European action. M. Moynier had already treated of this subject at the Institute in Paris, in September, 1878; but it was not expected at that time that the majestic course of waters explored by Stanley in 1877 would soon become the object of dangerous rivalries. The result has proved that the whites, who have formed many stations upon the upper Congo and its affluents, have already run the risk of being engaged in competitions which may disturb the good feeling between the new-comers and the natives, to whom European civilization should bring only benefits. The arrival at Stanley Pool of a French expedition which, having ascended the channel of the River Ogooué, from the affluents of the Congo, has introduced upon the banks of the upper Congo the representative of a European Government, who has taken possession, in the name of France, of a territory ceded by the native chiefs of the country.

It is evident from the very nature of things that the question of the Congo may properly be divided into two parts, for the lower Congo is already subjected to an order of things entirely exceptional, in which five European nations participate. This condition of affairs was based originally upon a common traffic in slaves, to which has succeeded a legitimate trade with the natives—a commerce in which the European nations take part in a perfectly independent manner, each for itself. In spite of that, there is on the Lower Congo, because of these nationalities, a certain solidarity of interest which counsels a common accord upon the subject of the navigation and the police of the river. But, as I have before said, as far as regards criminal jurisdiction, the whites of each factory regard themselves as independent, and as not responsible to any Government whatsoever.

The Upper Congo, on the contrary, bathes the territories of many native tribes. Their chiefs have granted stations to the agents of the International Association, which depend upon no European sovereign, but which are modeled upon certain institutions of the Middle Ages, to enable the population of barbarous Africa to participate in the advantages of European civilization. All the stations which this Association possesses have been acquired peaceably by treaties with sovereign chiefs of the country. It governs them by intelligent men, belonging to all European nationalities. And, moreover, it has hoisted over these stations a flag which signifies that they belong to no especial nation, but that they form part of an International Association founded in the interests of the natives, and which represents all countries

interested in the progress of humanity. A single European nation has entered this humanitarian arena, and that is the French Republic, which, in accepting, as a European State, the cession of territory made to Mr. Savorgnan de Brazza, has notified the civilized world that France has not sought to put private interests in opposition to the general interests of civilization, represented in Africa by a flag, the principal merit of which is precisely that of not being the flag of any one power. (See Report presented by the Government of the Republic to the Chamber of Deputies, 20th November, 1882.)

"Neither in the spirit of your Commission (it is there said) nor in the views of the Government, is there any purpose at this moment to go upon the banks of the Congo, or upon the neighboring shores with military array, but simply to found scientific, hospitable and commercial stations, without other military force than may be strictly necessary for the protection of the establishments successively created."

Unfortunately the appearance of a European national flag upon the banks of Stanley Pool raised the question whether the agent of an association which had not the political character of a State, could, by a cession of the actual sovereign of the country, acquire and exercise the sovereignty of a territory situated outside of Europe. I say *outside of Europe*, because we do not seek to find the solution of such a problem, as affecting Africa or Asia, in the existing political condition of affairs in Europe, nor in the fixed regulations of European society, upon which that condition of things rests, but in the unwritten law of nations, which should regulate the relations between free peoples, no matter to what family they belong, nor what religion they profess. Yet the practice of Europe, while Christianity was seeking to accomplish the high mission of civilizing the barbarous races on the northern and eastern frontiers, merits our attention, because of a certain analogy between the condition of those frontiers in the eleventh century, and the present condition of equatorial Africa.

In order, therefore, to appreciate the action of the International African Association, and to fathom the question whether this action is without precedent in the action of European peoples, it will be profitable, in the first place, to study the archives of a period when Europe was not entirely Christian, and when Christianity made a propaganda among the native pagan tribes who at that time inhabited a part of the country which we now call Prussia. This study will bring to our knowledge the action of an international association which accomplished the civilization of a country inhabited by people who might be called savages, and, at the same time, will furnish a refutation of the assertion put forth by certain publicists that states alone can exercise the rights of sovereignty.

M. de Laveleye, before cited, has made allusion to the Teutonic Order as an institution for the propagation of civilization, which, in the Middle Ages, carried civilization to the populations on the borders of the Baltic and cemented them to the rest of Europe. The action of this famous order in regard to the acquisition of the sovereignty of a barbarous country has an important analogy to the action of the International African Association.

Thus this order was originally a charitable association of Germans which the citizens of the free cities of Bremen and Lubeck instituted at the siege of St. Jean d'Acre, during the Fourth Crusade. Afterwards, this association constituted itself into an order of chivalry towards the end of the twelfth century, and, after the religious enthusiasm to which the Crusades had given birth had ceased to inflame the nations of Southern Europe, the order established itself at Culm, in the country which is now called Western Prussia, where Conrad, Duke of Massovie, of the Polish dynasty of the Piasts, ceded to it a territory and assured to it the conquests it might make over the idolatrous Prussians. The order by gradual steps established its dominion with Christianity over the whole of Prussia. The city of Königsberg, upon the Pregel, was built by it in 1255, and the city of Marienbourg, upon the Nogat, which became afterwards the capital of the order, dates its foundation back to the year 1276.*

Another order, that of the Chevalier's Sword-Bearers (*Ensiferi*), was established in Livonia, where, finding itself too weak to sustain the attacks of the pagans, it ended by uniting itself to the Teutonic Order. This union rendered the Teutonic Order so powerful it was able to establish its authority over the whole of Prussia, Courland, and Senegal, and, from the annals of that time we learn that in converting the people to Christianity the Teutonic Order subjected them to an exceedingly hard yoke. The Teutonic Order maintained itself in the sovereignty of this country until the middle of the fifteenth century, when it was subjected to great territorial losses in a war against Poland, and was compelled to become the vassal of the King of Poland for Oriental Prussia. It is upon the embers of this order that the Prussian monarchy was established by the courage of the descendants of Duke Albert of Brandenburg, grand master of the order, the first duke of Prussia.

It is to be observed that, during all this time that this order was sovereign, it was.

* The Schloss-Hauptmann of the Castle of Marienbourg, formerly the palace of the grand master of the order, is now appointed by the King of Prussia.

not recognized as a State, and that the master of Livonia was not admitted to a sitting and vote among the states of the German Empire until after this order had ceased to be sovereign.

The city of Dantzic was, for two centuries, up to 1454, the maritime capital of the order, and it may be said that the Teutonic Order was the supreme power, during two centuries, on the shores of the Eastern Baltic without being organized as a State.*

On the other hand, in the south of Europe, there was an order of chivalry whose services to civilization in defending Christian countries against the invasions of the Arabs and the Turks are more famous even than those of the Teutonic Order. I refer to the sovereign Order of St. John of Jerusalem. This order, originally founded for the service of the hospital of St. John at Jerusalem, quitted the holy city at the commencement of the fourteenth century and established itself in the Island of Rhodes to defend the frontiers of Christianity against the attacks of the Saracens. Then it had to give up the Island of Rhodes to the Turks, and it established itself in the Island of Malta, of which it obtained the territorial sovereignty as a gift from the emperor, Charles V, in 1530. Even this order adopted a territorial title, that of the Order of Chevaliers of Malta, and maintained its sovereignty over this island until the year 1798. The English having soon after become masters of the island, by conquest from the French, it was proposed by the congress of Amiens, the 27th March, 1802, to restore the fortress of Malta to the Order of St. John, and to put the independence of the island under the guarantee of the powers uniting in that congress. This project failed. At the congress of Vienna, in 1815, the Order of Malta demanded to be provided with another sovereign establishment in the Mediterranean suitable for the institution of the order, and that its independence and neutrality should be guaranteed by all the powers. The congress would not listen to this demand.

I have cited these two examples to show that according to the law of usage of European associations which are not organized as states can, nevertheless, exercise sovereign rights. But it may be said that these orders of chivalry were privileged orders, and that they belong to an epoch when Christian civilization was propagated at the sword's point. Putting aside, then, the military epoch of the civilizing propaganda, let us pass to the commercial era inaugurated by the discoveries of Christopher Columbus and Vasco de Gama. The theory of publicists which we have to examine is this, that a private association cannot exercise sovereign rights in a barbarous country. A learned *collaborateur* of the *Revue de Géographie*, of Paris, has formulated it in these terms: "It is a principle of law that states alone can exercise sovereign rights; that no private company can have them."† It is evident that this proposition is affirmed by M. Delavand in too absolute a manner for the facts of history contradict it. Among the members who formed the great Union of the United States of North America there were at least four which owed their origin to private associations, whose territorial sovereignty had been established before they received any charter of incorporation from the Crown of England. Everybody knows that a commercial company acquired by treaties with the natives the sovereignty of the English Indies. A similar Dutch company acquired and exercised sovereign rights in the Island of Java and in the Malaccas. Should there be a different rule in Africa from that which has prevailed in America and Asia? Or should there be, for the young republics of the nineteenth century, a law of nations directly opposed to that which presided at the foundation of the independent States on the shores of North America—States whose federation gave birth to the parent republic of our age? I do not think so. Doubtless the national law of a country may prohibit its citizens from accepting the sovereignty of a barbarous country, but the international question must not be confounded with the question of national law, in regard to which we may say, "*Extra territorium jus dicenti impune non paretur*."

Will it be said that these ideas are superannuated; that they do not belong to our age? I will reply by a very recent example, which has been the subject of discussion between the Governments of Spain, the Netherlands, and Great Britain. It is known that certain native chiefs on the northern coast of the Island of Borneo delegated to a European, a private individual, rights implying the exercise of territorial sovereignty; that the person to whom the chiefs of the country had delegated supreme power, under the title of maharaja, ceded his rights to a private company, and that that company obtained from the English Crown a charter of incorporation. It may be said that the history of the propagation of civilization in the seventeenth century in America is renewed in Asia and Africa in the nineteenth century. The

*The old Teutonic Order was suppressed in the year 1809 at the peace of Lunéville, when the grand master of the order was secularized for the archduke to be chosen by the emperor. It may be said of the Teutonic Order that it was renewed in 1824 and reorganized in 1840 and 1865, but that it is the shadow of a great glory—*magni stat nominis umbra*.

† Vol. XII of the Review above cited, p. 224.

English Government regarded this delegation of sovereign rights by native chiefs, in return for an annual subsidy, as a sufficient title to enable the company to exercise these powers, and sustained this proposition before the House of Commons. In reply to a question in regard to the granting of the charter of incorporation, Sir Henry James, Attorney General, said:

"The rights which have been accorded the company have become legally its property, and it would have been an act of confiscation if the Government of Her Majesty had attempted to deprive it of them."

And the prime minister, Mr. Gladstone, also affirmed that the charter had not granted to the company any power to exercise rights implying sovereignty which it had not already acquired by delegation from native chiefs. A correspondent of the *Revue de Géographie* of Paris has specified these rights according to the contents of the act of delegation.* It is not doubtful that in virtue of this act the company, without being a state, can exercise sovereign rights over a considerable territory in the northern part of the Island of Borneo. M. E. De Laveleye, before cited, says that Germany, formally consulted by the British Government in 1882, did not question the capacity of private individuals or of companies to obtain from non-civilized sovereigns the concession of rights implying the exercise of rights of sovereignty. The Government of the Netherlands and of Spain did not deny such power, but they claimed to have anterior rights over the northern portion of Borneo; and it was in virtue of those anterior rights that they protested against the rights claimed by the British North Borneo Company. It is, therefore, evident that the obstacles which the establishment of stations by the International Association upon the Upper Congo might meet with from European powers are not to be found in the fact that they are in contravention of any law of nations by virtue of which states alone can exercise sovereign rights, but solely in the fact that Portugal pretends, by reason of anterior rights, to deny the capacity of the native chiefs of the country to cede the sovereignty of a part of their territories without the consent of Portugal.

It appears, in the meantime, that the British Government did not yield to the pretensions raised by Holland and Spain concerning the northern part of the Island of Borneo, and that the Government of the French Republic, in spite of the pretensions of Portugal, has recognized the supremacy of a native king upon the Upper Congo, and has accepted the cession of his hereditary rights. This treaty, concluded by M. Savorgnan de Brazza, as the representative of France, at Neousa, the 30th October, 1880, ceded to France a territory which was in the possession of certain chiefs, vassals of the King Makoko; and said chiefs signed the treaty, whilst the King Makoko, in his capacity as suzerain of those chiefs, ceded to France, by an act invested with his mark, his rights of supremacy over this territory. It seems, therefore, that there is no place for a suzerainty of Portugal over the regions around Stanley Pool, according to the opinion of the Government of the French Republic, for the senate and the chamber of deputies authorized the president of the Republic to ratify the treaty and act above mentioned, and the president has promulgated a law to give them full effect.

It might reasonably be asked, if there is any difference in principle between the right of African chiefs, admitting they are sovereigns of a territory, and the right of Asiatic chiefs to cede their territory to a private company. France, at least, has recognized the right of King Makoko, suzerain of the Batakés, to cede to a European State his rights of sovereignty, and the right of the chiefs subordinate to his authority to cede the possession of the parts of the territory they occupied. Why should it be forbidden to a native chief to cede his territory to an international European company, which, according to the law of nations, is perfectly capable of accepting and exercising such a sovereignty?

The *Comité d'Études* of the Upper Congo—for it is necessary to distinguish between the association which occupies the Lower Congo and the association which occupies the Upper Congo—has made, through Mr. Stanley, with the native chiefs, treaties, which in regard to their tenor resemble more closely the treaties concluded by the British Society with the Sultans of Brunei and Sooloo, in the Island of Borneo, than the treaties concluded by the native chiefs of the Upper Congo with Mr. Savorgnan de Brazza. Take for example the treaty which Captain Eliot, agent of Mr. Stanley, concluded with the Chief Manipembo, the 20th of May of this year. The three first articles declare that the Chief Manipembo cedes and abandons to the committee of the Upper Congo, in full property, certain territories in return for a present the receipt of which is acknowledged, and he solemnly declares that these territories form an integral part of his state, and that he can freely dispose of them. It is clearly evident from the tenor of these articles that the Chief Manipembo recognizes no superior chief. Article IV of the treaty states that the cession of territory carries with it the abandonment, by the above-named chief, and the transfer to the committee of all his sovereign rights.

* Mr. A. J. Wanters, assistant secretary of the International Congress of Commercial Geography of 1879. First number of the Review, July 1, 1883, p. 60.

Was this transmission of sovereign rights to the committee of the Upper Congo illegal according to the law of nations? It is indisputable that the Chief Maniembu was legally capable of concluding treaties with European powers, for the French Republic, through M. Cordier, on the 12th of March of this year, concluded with him and with the King of Loango treaties by which all the left bank of the river Quillon, which empties into the Bay of Loango, is placed under the protectorate of France.

Concerning the exercise by the committee of the Upper Congo of sovereign rights, acquired by treaties with native chiefs, if reliance can be placed upon an article in the journal *l'Export*, which professes to have its facts from good authority, the committee has instructed its representatives, in case of expeditions from any nation seeking to establish themselves there, to give them gratuitously the necessary land. The committee wishes especially to create colonies at the stations of the Congo, and to see developed there a new kind of *free cities*. An idea which may throw some light on the future of the Upper Congo is this: *An International Protectorate of the Lower Congo, under the presidency of Portugal, and a system of free cities for the Upper Congo.*

History teaches us that the march of the caravans which traverse the sandy deserts of Northern Africa has been rendered possible by the existence of certain spots where nature has made provision of water and vegetation where travelers and camels can rest and refresh themselves. Why should not a philanthropic association be permitted to imitate this foresight of nature, and to establish, like these *oases*, free cities at certain distances upon the banks of the great river of Equatorial Africa, to facilitate the progress of a humane civilization and the development of a beneficent commerce?

The institution of free cities in Germany greatly accelerated the progress of the arts and civilization in Europe, and the rapid development of these cities in the fourteenth century teaches us that by means of such an organization a nearly barbarous country can be erected into a civilized body upon an industrial and commercial basis. These cities, either through their origin or by virtue of the charters granted them by sovereign powers, secured to themselves a free government, which assured to their citizens personal liberty and the ownership of their property under the protection of their own magistrates.

The traveler in the free city of Bremen, on arriving at the market-place, will see before him a great stone column which is called the Rolands Saule. This column supports the colossal figure of a man, holding in his right hand a sword, and crushing under his feet the head and hand of a man. This is emblematical of the right of the city to dispose of the lives and labor of its inhabitants. The present column was erected in 1412, but it replaced a wooden column which dated back to the period of the First Crusade, and whose origin is unknown. Other monuments of analogous character to this are found in many of the cities of Germany, and they are symbols of the right which the magistrates of these cities had to exercise both civil and criminal jurisdiction. They bear witness that these cities were *sui juris* in regard to the power to make and execute their laws. Should an institution which contributed so much to attach the North of Europe to the civilization of the South, which rooted itself so firmly upon the shores of the North Sea and the Baltic that its vitality withstood the strain of wars and civil dissensions for six centuries, should that be regarded as an innovation in the usages of nations when transplanted into Equatorial Africa?

When the Dutch Provinces of Spain revolted against the Spanish Crown, and the Prince of Orange granted letters of mark to individuals, to make reprisals against Spain, the Spanish Government refused to recognize the legality of these letters of mark, upon the pretext that a republic could not exercise rights of admiralty, which belonged exclusively to crowned heads. This is the origin of the term of opprobrium *guex de mer*, which the Spaniards employed to degrade the Dutch, but which the Dutch adopted as a title of honor. In the same way as now, it was then attempted to make it appear that under the law of nations States alone could exercise sovereign rights. But the facts contradicted this proposition. The suggestion recalls the fable of the hare and the tortoise. According to the principles of pure mathematics the tortoise should never be able to catch the hare, but the problem is simplified enormously when recourse is had to the proof of the facts. To use a scholastic expression, "experience discovers the truth"—*solentur ambulando*. For example, the right of the International African Association to hoist a flag upon its steamboats upon the Lower Congo can be denied, while the English society, in possession of the rights of the Sultans of Brunei and Sooloo, implying the exercise of rights of sovereignty, has raised its flag and the British admiralty has been authorized to recognize it.

To return to the objection of certain publicists that a State alone can exercise sovereign rights. The free cities of ancient Rome and of the empire of Germany (to distinguish it from the present empire) were not subjects of the Emperor, but vassals of the empire, and when the free city of Strasbourg capitulated, in the year 1681, the King of France received it under his royal protection, and it preserved all its privileges and its magistrates with civil and criminal jurisdiction, as a free republic, with a territorial zone, under the protection of France, until the French Revolution.

What are the obstacles which delay the establishment of a system of free cities on the banks of the Upper Congo, and which prevent the powers whose subjects have establishments on the Lower Congo from coming to an agreement as to an international protectorate of the river? There is a European power which arrogates to itself, in virtue of a discovery of the mouth of the river Congo in the year 1484, the sovereignty of all territory watered by this river and its affluents. I do not speak of the pretensions of this power over all the territory of the west coast of Africa, between 5°, 12°, and 8° south latitude—pretensions which have been contested by France, by Holland, and even by England since the slave trade was abolished by conventions between the British and Portuguese Governments. So long as the slave trade existed, everybody hunted negroes in common in the regions of the Congo. Since the slave trade was abolished the maritime powers of Europe have treated the pretensions of Portugal with courtesy, but not one has admitted them.

I affirm, with all the respect due to the country of Prince Henry, the Navigator, that this is the condition of things upon the Congo, although the Portuguese Government, in a circular dispatch, written in reply to a resolution of the Institute of the International Law, has asserted that its rights are not disputed.

In support of this assertion of the Portuguese Government the author of the dispatch cites an incident of the last Franco-German war. During the war a French corvette captured a German merchant vessel, the *Hero*, lying at anchor in Banana Creek, inside the mouths of the Congo. The circular dispatch states that the German Government requested the Portuguese Government to demand the rendition of the prize, as captured in Portuguese waters; but it does not say that the Portuguese Government took any steps before the French prize courts, or that the French Government acceded thereto. The statement of facts stops there. Then, the dispatch says that "the news soon reached Europe that the French governor of Gaboon, the port into which the captor had carried his prize, had set at liberty the crew, and caused the German ship to be taken back to Banana Creek, where it remained at anchor till the close of the war."

The author of the dispatch appears to me the victim of the paralogism, described by the phrase *post hoc, propter hoc*, for he attempts to draw from these facts the "irresistible conclusion" that the governor of Gaboon recognized the waters of Banana Creek as Portuguese waters. It appears, on the contrary, that the ship was set at liberty by the governor of Gaboon, *motu suo proprio*, and in no manner on account of any demand of the Portuguese Government; and the only legitimate conclusion from the premises is this: The governor of Gaboon recognized that the capture of the ship had been effected in territorial waters, where, whether they belonged to a native King or to a European power, France had not the right as a belligerent power to capture the enemy's ships.* The governor of Gaboon conducted himself loyally without waiting special instructions from his Government. This fact, which the author of the dispatch cites as a proof of Portuguese sovereignty over the territories of the west coast of Africa, between 5°, 12°, and 8°, south latitude, comprising the mouths of the Congo, has absolutely no significance as an argument.

Another event which the dispatch of the Portuguese Government recalls is that of the 1st of May, 1877, which had previously acquired considerable notoriety by the publication of the correspondence between the Portuguese Government and the Government of her Britannic Majesty. Several old slave-traders, established at Punta da Lenha, were carrying on a regular and legal commerce with the natives, but, at the same time, were slave-owners. In consequence of an incendiary attempt upon a Dutch factory, the residents of Punta da Lenha made a "*noyade*" (drowning of several persons at the same time) of negroes in the river opposite Boma. The British consul, who resides ordinarily at Saint Paul de Loando, which city is under the jurisdiction of the Portuguese crown, wished to make inquiries at the scene of the crime in regard to the summary execution of twenty-nine negroes by order of their masters, but he did not dare to disembark at Punta da Lenha because of the threats of the inhabitants. Under these circumstances, the Portuguese Government conducted itself in a very proper manner. At the instance of Consul Hopkins, of Loando, the governor of the Portuguese province of Angola sent a gunboat to Punta da Lenha, and arrested a British subject named Scott, implicated in the *noyade*, and was perfectly willing to try the accused according to the laws of Portugal, with the consent of the English consul; but the correspondence between the two governments shows that the English Government was unwilling to admit Portuguese sovereignty over the banks of the Congo. It is surprising that the author of the circular dispatch should have cited this incident as indicating the recognition of Portuguese sovereignty by the English Government, when the correspondence presented to the British Parliament in regard to this matter proves precisely the reverse. Here, for example, are the terms of a

* The Times of the 5th November, 1882, in which an English translation of the circular dispatch of the Portuguese Government is published, says: "Unquestionably because the Government *perceived* that the capture had been made improperly."

dispatch of Sir Julian Poncefort, under secretary of state, to the English consul at Leando, which closes the correspondence:

"The territory in which these outrages have been committed has long been claimed by the Portuguese Government, and this claim is renewed in the correspondence with the Portuguese authorities inclosed in your dispatches. Her Majesty's Government, however, as you are aware, have always contested and opposed that claim, and cannot, therefore, admit the jurisdiction of the Portuguese tribunals to deal with the case of Scott."^{*}

No one accuses Portugal of wishing to impede the free navigation of the Congo, but it is to be regretted that, being powerless to insure that navigation to its own subjects, it is unwilling to consent to a friendly agreement with the powers whose subjects have factories upon the north bank, to put the navigation of the river beyond risk of danger. I have said advisedly that Portugal is powerless to insure the navigation of the river to its *own* subjects. I have already spoken of the tribes which inhabit the borders of Pirates' Bay, upon the north bank of the river, against whom the English commander, Hewitt, had to organize an expedition in 1875, because they had plundered an English merchant ship and massacred the crew. But there is, on the south bank, a considerable tribe who practice piracy on a large scale, and do not even respect Portuguese vessels. These pirates especially infest San Antonio, at the southern extremity of the month, in the immediate neighborhood of the column of Point del Padron. The author of a book entitled "Four Years on the Congo,"[†] published in Paris, describes an attack by these pirates upon a Portuguese brig. The account is interesting, but I will not now go into details. What it imports is, the powerlessness of the Portuguese Government to suppress the piracy of this tribe and to punish the guilty ones. I cite an extract from this work which gives the history of the Portuguese expedition sent to punish the Mussorangos who had attacked the Portuguese brig:

"On the 15th of November two corvettes and the frigate 'La Guadiana' left Leando. The little fleet, commanded by M. Viegas de C——, headed for the Congo. The commander hoped to surprise the negroes. Arrived at a place considered sacred, and which is called the 'Stone of the Fetish,' they anchored, and M. Viegas himself, with one company, ascended the creek in a steam gunboat and effected a landing, which the savages endeavored at first to oppose; but soon afterwards, dislodged by the showers of grape shot from the frigate, moored a few cables' length only from the shore, they retired in good order. Meanwhile, the little band of whites, finding no serious resistance, advanced. The corvettes shelled the villages in sight. Some groups of Mussorangos, who had stood firm till then, feeling themselves vanquished, fled in every direction, returning and stopping, from time to time, behind trees to discharge their guns at the whites. The commander burned all the villages he found. That was all that could be done. It would not have been prudent to march at a venture into an unknown country in search of an unapproachable enemy, always fleeing. It was necessary to re-embark; the ships came back to Banana, where they remained some days, and then returned to Saint Paul."

This is a very recent occurrence, which does not very well bear out the assertions of the Portuguese Government relative to the efficacy of its jurisdiction as remedy for the disorders of the Congo.

"The Congo (says the author of the circular dispatch) and the territories bordering its mouth are already the seat of an important commerce, and of European establishments of diverse nationalities, but there is no security either for life or property, no police, no courts, nor any of the institutions so necessary to all civilized people, and which can only be established under a recognized and effective jurisdiction. And such jurisdiction can only be exercised by Portugal, because no other nation possesses or claims any rights of sovereignty over these territories."[‡]

I repeat, the good intentions of Portugal are not in dispute. What is wanting is energy and material power; and it is necessary to have these in order to civilize the country discovered by the agents of the International Association. Four centuries have elapsed since Diego Cam, a Portuguese cavalier, erected a column upon the Point del Padron, the end of the south bank of the river's mouth, in commemoration of the fact that a subject of the crown of Portugal had discovered the great river Congo. This same point is to-day in the hands of a native tribe, which not only does not recognize the sovereignty of Portugal, but openly defies it. Nevertheless, the author of the circular finds much fault with the resolution of the Institute of International Law, because that resolution implies, according to him, forgetfulness of the rights of Portugal. What rights? There exist rights based upon the discovery of the country, but considering that the fleets of Pharaoh Neco, King of Egypt, made the circuit of Africa, we cannot admit that the legal discovery of the Congo was

^{*} Parliamentary Papers, Africa, No. 2, 1882, p. 83.

[†] Paris, G. Charpentier & Co., 1883.

[‡] I quote the text of the circular as published in the *Independence Be'ge* of the 7th November, 1883.

effected by Diego Cam. But rights founded upon the discovery of the country are only imperfect rights; occupation should follow, within a reasonable time, to render them perfect; otherwise the discovery becomes inoperative, like an abandoned title. Has Portugal occupied both banks of the Congo to acquire possession of its waters? Have we the proof of it? On the contrary, the very territory where Cam erected this column is to-day in the power of a native tribe, who have always resisted Portuguese sovereignty, and who openly claim to be (a thing almost incredible) the enemies of the human race (*hostes humani generis*). And, on the other hand, England, which pretends to no sovereignty over the waters of the Congo, has been obliged to land a force upon the north bank to chastise an act of piracy committed by the inhabitants of the creeks in the neighborhood of Banana.

It is evident that very soon the problem of the free navigation of the Congo will assume such proportions that the solution cannot be longer deferred. Should this solution wait upon a state which up to now has only demonstrated its powerlessness to civilize the countries on the south bank of the Lower Congo, its sovereignty over which is not disputed by any European state?

LONDON, November 21, 1883.

ARGUMENT OF PROF. ARNTZ.

Can independent chiefs of savage tribes cede to private citizens the whole or part of their states, with the sovereign rights which pertain to them, conformably to the traditional customs of the country?

This question, as it is propounded, presents two aspects. It must be considered:

I. From the point of view of the right of the one who cedes.

II. From the point of view of the one to whom the cession is made.

I.

In examining this question from the standpoint of international law, we must first ask if the chiefs of savage tribes can, generally, make treaties, conventions, cessions of territories; in other words, if the tribes which they represent are considered as states, having the capacity to make international treaties, which would be respected as such by all civilized or non-civilized nations.

From the fifteenth century till early in the nineteenth century, the rules of international law were regarded as being to some extent an exclusive privilege of Christian peoples, for the establishment of regular relations between them. With regard to pagan peoples, they were not considered as participating in the political community which international law established between Christians; and it was only by Article VII of the treaty of Paris of the 30th of March, 1856, that "the Sublime Porte was admitted "to participate in the advantages of the European concert."

We can easily understand that Christian nations could not admit to participation in the advantages of international law the people of nations who did not recognize this law as binding upon themselves, and who did not practice its precepts. Publicists and moralists teach that in their relations with Pagan and savage populations, Christian sovereigns should always conduct themselves honestly, and observe the rules of justice, equity, and Christian morality.

It would be too long to enter here into the details of the discussions which the authors of the sixteenth and seventeenth centuries had on the subject of the conduct of European nations in regard to the Indians. We shall limit ourselves to saying that the relations of the states of Europe with other nations had no fixed rules, that they varied much, according to the power and importance of the foreign nations, according to the communications more or less numerous which Europeans had with them, and according to the manners and customs practiced by them.*

Thanks to the progress of humanitarian ideas, of a better practice of Christian morality, and the greater influence of principles of international justice, feeble people, almost savage, although not possessed of the benefits of civilization, are no longer considered, in our days, as destined to serve as a mine for civilized nations to "work." All those having a human face, turned towards the heavens, are considered as members of the great human family, children of the common Father, animated by the same Divine breath, having the same destiny to accomplish, and meriting the respect due to human dignity.

These ideas have prevailed with jurisconsults and publicists, have permeated their doctrines, and happily have guided their practices. Savage tribes, although living in

*Heffter, par. 7, p. 14: "With respect to non-Christian states, which are not yet regularly admitted into the bosom of the European family, the application of the same law is entirely free, and founded upon a purely conventional reciprocity. Relations with them are formed according to the exigencies of policy and morality."

very imperfect communities, as well as their territories, are no longer regarded to-day as things without a master, and belonging to the first occupier, that is, to the first comer stronger than themselves. Want of civilization can no longer serve as a pretext to civilized nations to put them under subjection, or to control them by violence.

The law of nations is a science still imperfectly molded or stereotyped, and especially is it a science which ought not to be, and cannot be formulated *a priori*. Its fundamental principle is, no doubt, philosophy, but it has its positive base in the facts of history, and authoritative doctrine.

What are the conditions to enable a state to exist, as such, and to qualify it to treat?

"A certain number of men and families, who, being united, in a country, and having fixed their abode there, associate and submit themselves to a common chief, with the intention of providing for the safety of all, form a state," says Klüber,* and to the same effect, says G. F. de Marten:†

"Sovereignty (continues Klüber) in this extended sense consists in the *ensemble* of rights belonging to a state, independent as regards its object. It comprises, first, the entire independence of the state in the face of foreign nations; second, legitimate power of the Government or of the authority which the purpose of the state demands."

The same author says:‡

"Sovereignty is acquired by a state either at its foundation or when it separates itself legitimately from the dependence under which it was. To be valid, it does not need to be *recognized* or *guaranteed* by any foreign power whatever, provided its possession is not faulty (*viciéuse*)."

It is useless to multiply extracts. The principles summarized by Klüber on the sovereignty, the independence, and the equality of states, from the legal point of view, are equally professed by all authors. We will limit ourselves to the following: Heffter, par. 15, 16, pp. 32-34; par. 23, pp. 42, 43; par. 26, 27, pp. 47-49. Wheaton, vol. 1, pp. 32, 43. Vattel, lib. 1, chap. 1, sec. 4. W. E. Hall, International Law, par. 2, 4, pp. 16-20; par. 6-8, pp. 34-37; par. 9, 10, p. 39-42. Calvo, Droit International, par. 39-41, pp. 143-147.

Tribes inhabiting determined territory, represented by their chiefs, form, therefore, independent states.

From this the first consequence is that the territories which they occupy are not things without masters (*res nullius*), and cannot be occupied by other states. It is only territories *without master*, that is to say, upon which no sovereign power is yet established that can be the object of occupation.

As regards the right of *occupation*, see the following authors:

"Christian people cannot rightfully take possession of lands which savages already really occupy," says George Frederick von Marten.¶

Klüber¶ says: "A state can acquire things which belong to no one [*res nullius*] by *occupation* [*original*], and the goods of others by means of *conventions*, [derivative occupation.] * * * In order that the occupation may be legitimate, the thing itself should be susceptible of exclusive property and belong to no one. (A) The state should have the intention of acquiring the property thereof."

In the note (A) the author says: "Property thus is acquired rightfully by an occupation without flaw; it is preserved by continuous possession. In consequence no nation is authorized, no matter what its pretensions, especially if of a higher degree of culture, to seize upon the property of another nation. It cannot even take it from savages or nomads."

The author cites in support of this: Gunther, *Volkerrecht*, vol. 2, p. 10, *et. seq.* See also the beautiful and energetic passage from Heffter, *Le Droit International Public*, vol. 1, par. 70, p. 141, 142: "Droit d'Occupation."

To give validity of occupation it is necessary that the property should be without master, and that the intention to acquire the domain should be joined to the fact of an effective taking possession. Let us examine each of the three conditions:

1. Occupation is only to be applied to property which, although susceptible of being possessed, has no master. It does not extend to persons who can only be the object of a submission, whether voluntary or forced. Occupation is to be applied notably to countries and islands uninhabited or not entirely occupied; but no power on earth has the right to impose its laws upon wandering or even savage peoples. Its subjects can seek to establish commercial relations with these latter, can remain among them, in case of necessity, can demand of them indispensable articles of pro-

* Droits des gens moderne, par. 20.

† Einleitung in das positive europäische Völkerrecht, Gottingen, 1796, p. 1.

‡ Droit des gens moderne, par. 21.

§ *Ibid*, par. 23.

¶ Einleitung in das positive europäische Völkerrecht, par. 31.

¶ Droit des gens moderne de l'Europe, par. 25.

visions, and even negotiate with them the voluntary cession of a portion of the territory, with the object of colonizing it. Nature, it is true, does not forbid nations to extend their empire upon the earth; but it does not give the right to a single one among them to establish its dominion anywhere wherever it chooses to do it. The *propaganda* of civilization, the development of commercial and industrial interests, the putting into activity of unproductive values, do not justify it either. All that can be accorded on the subject is, that in the interest of the preservation of the human kind, it may be permitted to nations to unite in order to open by common accord the ports of a country hermetically sealed to their commerce.

See, to the same effect, Bluntschli, "Droits des gens, codifié," par. 20, p. 63.

Similar citations could be multiplied.

Communities of non-civilized tribes, forming according to the law of nations, as to-day admitted, independent States, the first logical consequence which follows is that these states cannot be acquired by reason of occupation by other states. A *second* consequence which necessarily follows from the same premises is, that these states or their chiefs, can make international *treaties* of every kind—treaties which have obligatory force for the contracting parties, and which should be respected by all other states, if they do not interfere with existing rights.

We would remark here with Calvo* that "international treaties may be concluded, even with nomadic peoples, having no territory of their own nor fixed domicile, when they have an expressed political organization and a common council by the intermediary of their chiefs or their assemblies." In this category (adds the same author) may be classed the Bedouins, scattered over the deserts of Arabia, Syria, Egypt, and barbarous Africa, and the Turcomans, who wander over the plains of Central Asia."

"There are conglomerated populations which do not compose a state. * * * But the nomads and the savages have, either among themselves or with civilized people, an international law which is observed equally with the international law of civilized nations," say Funck, Brentano, and Sorel.†

By still stronger reasoning the tribes composing states dwelling in determined territory can make international treaties. Savage African tribes, possessing determined territories, *can make all kinds of treaties. Their chiefs* can therefore *cede territory*, in whole or in part, to *whom*, we will see under No. 2. This rule, or rather this consequence, cannot be impeached in *theory*.

Sovereignty of a state, in the sense of international law (says Klüber, "Droits des gens moderne de l'Europe," p. 22) consists essentially in independence of all foreign control in relation to the exercise of rights of sovereignty; it ought by its nature even to be exercised independently of the antiquity of the state, or the form of its constitution of government, or the order established for the succession to the throne, or the rank, title or state of its sovereign; of the extent of its territory; of its population, political importance, manners, religion, state of culture in general, the commerce of its inhabitants," &c.

And the same author, par. 127, says:

"In regard to public domain, the state has, over the things which form part thereof, all rights of property, not only of exclusive possession and the right to enjoy it as owner, but also that of disposing freely thereof. The conventions or arrangements which it may make in this respect, whether with its subjects or with foreigners, are absolutely independent of other Governments. Nothing forbids it alienating its property, its putting it in pledge, or abandoning it. It has the capacity to acquire by accession."‡

Without going back to antiquity, modern history, since the seventeenth century up to our own days, furnishes us numerous examples of treaties, of cessions of territories, &c., concluded between civilized states on the one hand and savage tribes on the other. It is sufficient to recall the most noted cases:

In 1620 the English Puritans embarked on board the Mayflower, after establishing themselves in the northern part of Virginia, concluded with the chief or sachem of the Indians, Massasoit, a treaty of friendship, the most ancient treaty concluded by New England.§

In 1639 the founders of the colony of New Hampshire concluded with the Indians conventions for the purchase of land situated between the Piscataqua and the Merrimac, and there established the town of Exeter.||

Later William Penn made treaties with chiefs of Indians. It is useless to cite here the numerous treaties between the different States of New England and the chiefs of Indian tribes.

* See Charles Calvo, "Manuel du droit international public et privé" (par. 49, p. 85); also, his "Droit international théorique et pratique," vol. 1, p. 320.

† Précis du droit des gens; Paris, 1877, No. X, p. 23.

‡ See on this point, International Law, by Edward W. Hall, M. A., barrister-at-law, Oxford, 1880, par. 35, p. 100.

§ Bancroft's History of the United States, vol. 1, p. 342-350.

|| Carlier, History of the American People, vol. 1, p. 300.

Wheaton * recounts that some of these Indian tribes have recognized by conventions that they held their existence entirely at the will of the State within the limits of which they resided, and that others preserved a limited sovereignty and the absolute dominion of the territory inhabited by them; and he adds that by two decisions of the Supreme Court of the United States, in 1831 and 1832, the Cherokee Nation, residing within the limits of the State of Georgia, are held to constitute a distinct political society; that numerous treaties made by this nation with the United States recognize it as a people capable of maintaining relations of peace and war; that the English Government, having preceded the United States, bought their lands by contracts of sale, freely assented to, and never forced them to make sale against their will.

Let us pass from America to Africa and Asia. In the course of the last fifty years England has concluded with the chiefs of countries adjacent to the Congo thirteen treaties, of which we mention specially two, one concluded the 11th of February, 1853, with the King and chiefs of Cabinda, the other concluded the 20th June, 1854, with divers chiefs of the river Congo.

The treaty concluded by Mr. Savorgnan de Brazza with the King Makoko is of public notoriety.

To terminate the series of historical documents in support of the theory that chiefs of savage tribes can validly make treaties and cessions of territories in full sovereignty, let us recall further the recent treaties of the 29th of December, 1877, and the 22d of January, 1878, by which the Sultans of Brunei and of Sulu, in the island of Borneo, ceded a part of their territory to Mr. Alfred Dent and Baron Overbeck.

If, from the point of view of international law, it is indisputable that no State, civilized or not, has the right to arbitrarily trouble the chiefs of savage tribes in the possession of their sovereignty, the same prohibition applies to those to whom they have conceded, *whoever they may be*.

The *cessionnaires* have the same rights as the ceders. Under what pretext could another state trouble them? Their cession is valid, and thus all motive, or even all pretext for trouble is wanting; or, the cession is null, according to the law of nations, and then the sovereign who made the cession has, *in right*, preserved all his sovereignty, and no other state has the right to trouble it, or even to intervene to make good the nullity of the cession.

II.

Let us take the second question. Can a cession be made to a *private citizen*?

We are happy to be able to abridge this part of our work by referring to the article, "The Free Navigation of the Congo," published by our eminent colleague of the Institute, Sir Travers Twiss, in the sixth number of the *Revue du Droit International*, for 1883.

It is true that Sir Travers Twiss occupies himself with the question whether these associations which are not organized as States can exercise sovereign rights, rather than whether these rights of sovereignty can be conceded to private individuals; but the argument which he invokes in support of his thesis applies in great part to cessions made to individuals.

When writers establish their point of departure to arrive at a demonstration they commence often by saying:

"It is an established principle," &c. Or, "It is a principle of law," &c. And they employ this form when their principles are the most contestable. In the article we have just cited, Sir Travers Twiss mentions an article in the *Revue de Géographie*, of Paris,† in which Mr. Delvand says: "It is a principle of law that states alone can exercise sovereign rights, and that no private company can have them." He (Sir Travers Twiss) adds, with reason, that this proposition is affirmed in too absolute a manner, and he proves conclusively by historical facts that his criticism is just.

Doubtless an individual, *as such*, and a private society, *in that capacity*, are not sovereigns, and exercise no act of sovereignty. This needs no demonstration. But, in virtue of what principle of international law is it sought to be shown that one who is a private citizen to-day cannot become a sovereign to-morrow, and be in possession of the plenitude of sovereignty? Such a principle does not exist. No author of international law has ever sustained it, and all the history of humanity, from the earliest down to modern times, denies it.

Individuals can become sovereigns, and exercise the rights of sovereigns, in two ways:

First. By creating themselves into a state—that is to say, by establishing themselves upon a territory which belongs to them, and forming themselves into a community with a regular government, and legal organs of public power—in a word, with all the constituent elements of a state.‡

* Elements of International Law (Fr. tr.), vol. 1, p. 50.

† Vol. 12, p. 12.

‡ See authorities cited, p. 4, *supra*.

Most of the states of antiquity, according to legends and traditions, or positive historical information, have been created in no other way.

The states of the Middle Ages had the same origin. The Franks, the Visigoths, the Ostrogoths, the Burgundians, and others, were only nomadic peoples, composed of chiefs who, in the eyes of international law, were only individuals, but who founded states.

The Italian republics of the Middle Ages were only municipalities without international sovereignty, and they have become sovereign states. Simple individuals, poor fishermen, caused the republic of Venice to rise from the waves of the Adriatic and to become its queen.

Almost all the States of New England, in America, have been founded by individuals.*

States, to *exist*, have no need to be recognized by other states. Those who have founded them are the *sovereigns*, and therefore have the right to exercise the rights of sovereignty in so far as this exercise has not been delegated to an authority instituted under the constitution of the state.

And a revolution which has for result the detaching from a state of one of its parts, is it not at the commencement the work of individuals? And those individuals, if they unite themselves in their enterprise, can erect a simple province or provinces into a new and sovereign state, and exercise then sovereign rights.

And, if to-day, simple individuals should establish themselves on a desert island, or on territory unoccupied by another state, they can establish a new state, with all the rights of sovereignty. We have seen Texas thus formed.

Second. An individual can become sovereign by succeeding to another sovereign in the exercise of the sovereignty of a state. From a private individual he becomes a sovereign.

The question whether a private individual can accept a sovereignty when the interior laws of his state forbid him is outside of our subject, and we do not treat of it.

Philip, Duke of Anjou, great grandson of Louis XIV, was, from the point of view of international law, a simple individual. After the death of Charles II, by the treaty of Utrecht the states belonging to the Crown of Spain were dismembered, and Philip V was recognized as the King of Spain, and acquired part of the states of the Spanish monarchy. Other examples might be cited.

When a prince was elected King of Germany he became a sovereign from a private individual that he was.

Or, again, when a chief of an African tribe, forming a sovereign state, cedes to an individual in full sovereignty a part of his state, does he do other than to call another person to the exercise of rights of sovereignty over one part of his state, erected into a new state? What difference is there between the case of a European prince who is called as sovereign to a state, or part of a state, and that where an African chief calls upon an individual to exercise sovereign powers over part of his state? In the *fact* undoubtedly there is much difference, but in *law* there is none; and that is the question. It is a question of law (*droit*) we have to study here.

It is even possible that an individual may remain a *subject of the state* to which he belongs, and may be the *sovereign of another country*. The sovereign, therefore, can have a double personality. Thus, Ernest Augustus, and George V, Dukes of Cumberland, were subjects of Queen Victoria and peers of England at the same time Kings of Hanover. In 1787 the sovereign bishop of the principality of Osnabruck, the Duke of York, sat as a peer of England in the House of Lords.†

The question which has been laid down at the head of this opinion is a novel one. It has not been foreseen or treated in works of international law. Many authors treat a question which touches upon this one, but which differs from it a good deal. They ask if an individual can make in his own name an act of occupation of a territory newly discovered without a master. They reply negatively to this question, and, in their line of ideas they are right; for those who discover new territories are almost always navigators, traveling in a public ship, often public officers or individuals commissioned by their governments—agents of the government—and they cannot occupy in their own name.

A recent event furnishes a powerful support to the theory that rights of sovereignty can be ceded to individuals, namely, the treaty between the Sultans of Borneo and Sulu and Mr. Dent and Baron Overbeck, who, in their turn, have ceded their rights to a private British company, the "British North Borneo Company." This fact has importance in itself, as a new event which enlarges juridical science; but what especially gives strong support to our thesis is the manner in which this event has been appreciated, be it inferentially or explicitly, by several governments, by jurists, and by eminent statesmen whose opinions can be invoked as having authority.

* See the histories of Bancroft and Carlier.

† Heffter, "Le droit international public," par. 52, p. 104.

The opinions of juriconsults and publicists are ranged among the sources of international law.*

In the first place, the Governments of Holland and of Spain, who believed themselves most directly affected by the concessions, accorded by the two Sultans of Borneo, did not deny the principle of the capacity of individuals or of associations to have ceded to them rights of sovereignty, but they raised reclamations against these treaties by invoking rights previously acquired.

Let us reproduce here the passage written by M. de Laveley upon the discussion to which the giving of a charter of incorporation to the British North Borneo Company gave rise in the English Parliament: †

"Certain members of the left, adversaries of what is called in England the imperial policy, that is to say, of the policy which seeks extension of territory and of influence, criticised the measure because it created a new responsibility for the country; but no one contested the right of individuals or of the company—rights resulting from treaties concluded with indigenous chiefs. In the reply made in the House of Commons by the attorney-general, Sir Henry James, we read:

"These rights were conceded to the company and became legally its property. The Government of Her Majesty had no power to enter into a general examination of the propriety of the occupation of Borneo by a commercial company. It would have been an act of confiscation if, after what had happened, the Government had interfered, and had endeavored to take from it the rights which it had acquired. * * * The only thing the Government had to decide was whether or not it was necessary to leave the company to act without impediment and entirely without control.'

"Mr. Gladstone was not less affirmative. Said he, at the same sitting:

"The charter has not conferred upon the company a single privilege above and beyond what it had already acquired by virtue of a title sufficient to enable it to exercise all these powers.'

* * * * *

"From the explanations given by Lord Granville in the House of Lords, the 13th March, 1882, it appears that if Holland and Spain have protested against the rights invoked by the Overbeck-Dent Company, it was because of anterior rights which these states pretend to have over the northern part of Borneo; but, no more than Germany, formally consulted in the matter by the British Government, have they raised any doubt as to the capacity of individuals and companies to obtain from non-civilized sovereigns the cession of rights implying the exercise of sovereignty. This capacity also was not denied by the members on the opposition side of the House of Commons."

Thus, the opinion of four Governments, the opinion of two English ministers, Lord Granville and Mr. Gladstone, and of the attorney-general, Sir Henry James, that of Sir Travers Twiss, and of M. de Laveley, to which we would add the considerations developed in the open letter addressed, the 23d April, 1883, by a member of the African International Association to the *Courrier des États-Unis*, form an assemblage of authorities of a nature to fortify us in our conviction if we had any doubts.

We conclude with these observations:

1. It is evident that if some powers have raised against similar concessions, made by chiefs of savage tribes to individuals and associations, reclamations founded upon rights *previously acquired*, there would be ground to submit these pretensions to serious examination, or perhaps they might be submitted to arbitration, as Great Britain and Portugal, in 1875, submitted to the arbitration of the President of the French Republic, M. MacMahon, the contest in regard to certain lands situated on the bay of Delagoa.

2. *New sovereignties, at the head of which are individuals or associations, the concessionaries of the chiefs of savage tribes, exist of themselves, of their own right and their own strength, without having need of the recognition of other states.* (See Klüber, par. 23; Heffter, par. 23, p. 42, and par. 51, p. 104; Bluntschli, par. 28 and 38; and all the authors.)

It depends upon the *covenantance* of other states to recognize or not to recognize these new sovereignties. But whatever may be their determination in this respect, the want of recognition does not give them the right to act as if these sovereignties did not exist, and to consider their territories susceptible of *occupation*.

3. According to the practice of international law, at this day, the recognition of one to whom sovereignty has been conceded, as a sovereign, can even follow of itself, in certain cases. Almost all governments, especially Great Britain and the United States of America† have adopted the rule of considering *de facto* governments as legitimate, as far as they themselves are concerned. (See Heffter, par. 51, 53, pp. 101-105.)

Let us suppose a European nation had concluded a treaty of friendship or commerce with the chief of a savage tribe, inhabiting a fixed territory. This treaty is

* Wheaton. vol. 1. par. 12, p. 25; Heffter par. 8, p. 16.

† "Revue de droit international," vol. xi, p. 258, 259.

‡ See manifesto of President Monroe, of December 2, 1823.

supposed to be concluded, and is effectively concluded with the State which the chief represents. The chief had ceded his rights of sovereignty to a European individual or a European association, who are put in real possession of the sovereignty. Could the European nation deny the legitimacy of this new government if it was a government *de facto*, according to international usages? No. At least, Great Britain and the United States would recognize it, and probably other states also. And if the preceding chief had been displaced by internal revolution—which can break out among blacks as among whites—and if the black chief had ceded his sovereignty to another negro, a relation or even a stranger to his family, would that be a reason for refusing recognition to the new sovereign? And if the chief of the tribe had ceded his sovereignty to a white man, in place of choosing for his successor a black man, or an association composed of whites, certainly the difference of color could not be a reason for refusing recognition to the new sovereign.

Thus it is seen that in wandering away from true and simple principles difficulties of every kind are encountered.

Therefore I am of opinion that independent chiefs of savage tribes can validly cede to a private individual the whole or part of their state, with the sovereign rights which belong to them, and conformably to the traditional customs of the country.

BRUSSELS, December 15, 1883.

OTHER AUTHORITIES CITED.

[Extract from the "Droit International Codifié," by M. Bluntschli.]

(Page 68, paragraph 35): A new state has the right to enter into the international association of states, and to be recognized by other powers when its existence cannot be put in doubt and is assured. It has the right because it exists, because international law unites existing states by common laws and principles based upon justice and humanity.

1. Recognition by other sovereign states is a voluntary act on a part of these latter. It is not, nevertheless, an absolutely arbitrary act, because international law unites, even against their will, diverse existing states, and makes of them a kind of political association.

The opinion is frequently advanced by the older publicists that it depends upon the good pleasure of each state to recognize or not to reorganize another, outside of the necessary and absolute line of international law. If this law rested solely upon the arbitrary will of states, it would not be just that it should be simply a conventional law.

(Page 164:.) A state has evidently the right to constitute itself without the ratification of another state. This would be the case when emigrants, for example, found a State upon an uninhabited island, as did the Norwegians in Iceland in the middle ages. A number of new states of North America were founded by individuals; it was only later that they were recognized by England, and to this day, they proceed in the same manner in the United States. If new states can in this way constitute themselves, by still stronger reasoning analogous extensions of territory already existing should be recognized.

[From "Elements of International Law," by Wheaton.]

(Page 32, Fr. ed.:) The international sovereignty of a state does not, in any degree, depend upon its recognition by other states. A new state springing into existence, does not require the recognition of other states to confirm its internal sovereignty. The existence of a state *de facto* is sufficient, in this respect, to establish the sovereignty *de jure*. It is a state because it exists.

[From Vattel, "Le Droit des Gens," vol. 1, page 489, par. 206.]

ANOTHER MANNER OF ACQUIRING THE SOVEREIGNTY OF A FREE COUNTRY.

If free families, scattered over an independent country, unite to form themselves into a nation or a state, they acquire the sovereignty over the whole state which they inhabit, for they possess already the domain; and since they wish to form a political society and to establish a public authority to which all will owe obedience, it is quite manifest that their intention is to confer upon this public authority the right of sovereignty of the whole country.

[From Heffter, "Le Droit International Public de l'Europe."]

(Pages 32 and 33:) The existence of a state supposes the following conditions, to wit:

I. A society capable of existing by itself and independently.

II. A collective will regularly organized, or a public authority charged with the direction of society for the end which we have just indicated.

III. A permanent status of society, the natural base of a free and permanent development, and which depends essentially on the fixity of the tenure of real estate and the intellectual and moral tendencies of its members.

We regard as idle the questions discussed by the schools, such as, What is the number of persons necessary to form a state? or, If one or three persons are sufficient? The distinctive characteristics of a state which we have just indicated sufficiently answer these questions.

(Page 42:) A state exists *de facto* so soon as it unites the necessary elements indicated above; that is to say, will, united to the indispensable means and strength to defend its independence.

(Page 43:) The entry of a new state upon the political scene depends in no wise upon an express preliminary recognition by foreign powers. It is fully accomplished the day when it commences to exist. On the other hand, political reasons alone may decide foreign powers to recognize or enter into direct relations with it. Recognition only confirms what legally exists by admitting the new member into the grand European family.

[From the "Commentary upon the Elements of International Law, and History of the Progress of International Law," by William Beach Lawrence.]

(Page 162:) It is not necessary that there should be a determined number of persons to form a state.

(Page 197:) Texas was recognized by England in 1839, when its population was not more than 60,000 souls. Lord Palmerston said on that occasion to Mr. O'Connell "that the principle of the Government was to recognize every state which had a *de facto* independence."

NEW YORK CHAMBER OF COMMERCE.

DEPARTMENT OF STATE,
Washington, January 23, 1884.

SIR: I have the honor to inclose for the consideration of your committee a copy of resolutions adopted by the chamber of commerce of the State of New York, on the 10th instant, in regard to securing to American citizens free commercial intercourse along the valley of the Congo, &c., and of a letter communicating the same.

I have the honor to be, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

Hon. JOHN F. MILLER,

Chairman of the Committee on Foreign Relations, Senate:

[Chamber of Commerce of the State of New York, founded A. D., 1768.]

NEW YORK, *January 11, 1884.*

DEAR SIR: Pursuant to instructions of the chamber of commerce I herewith inclose a copy of resolutions adopted by the chamber at a meeting held yesterday, in regard to securing to American citizens free commercial intercourse along the valley of the Congo, &c., and to which your attention is respectfully asked.

I have the honor to be, with great respect, your obedient servant,

GEORGE WILSON,
Secretary.

CHESTER A. ARTHUR,

President of the United States, Washington, D. C.

[Chamber of Commerce of the State of New York. Founded A. D. 1768.]

At an adjourned meeting of the Chamber of Commerce, held January 10, 1884, the following resolutions, presented by Mr. A. A. Low, were adopted:

Whereas, the President of the United States has, in his recent message, called attention to the fact that the rich and populous valley of the Congo is now being opened to commerce by the International African Association, and has especially dwelt upon the interest, for the purposes of trade and commerce that we have, as a people, in the neutrality of that valley, free from the interference or political control of any one nation: Therefore,

Be it resolved, As the opinion of this chamber that it is incumbent upon the Government of the United States, through its accredited representative, to apprise the Portuguese Government that it will not recognize, but denies the right of the latter to interfere with the free navigation of the Congo; that the discovery of this great water-

way into the interior of the center of Africa is not due to Portugal, but was the discovery of an explorer in the interest of no one nationality; and that the entry, 400 years ago, into the mouth of the Congo, by the Portuguese, not having been followed up by actual and continued occupation, can give that nation no territorial right to the river, or to the countries upon its banks.

Resolved, That the recognition by the Government of the United States of the flag of the International African Association, now extending over twenty-two settlements, in the heart of Africa, will be but an acknowledgment of the fact that that organization, under rights ceded to it by African chiefs of independent territories, is exercising rule and authority over a large part of Africa in the protection of life and property, the extinguishment of the slave trade, the facilitating of commercial intercourse, and other attributes of sovereignty; and that it be recommended to the President to send an accredited agent of the Government to the Congo, to confer with that association in the adopting of such measures as may secure to American citizens free commercial intercourse along the course of that river, and through the various settlements or stations established by the association.

A true copy.

JAS. M. BROWN,
President.
GEORGE WILSON,
Secretary.

[SEAL.]

Extract from a letter of Mr. Latrobe, president of the American Colonization Society, in reference to the first establishment of a colony and government in]

LIBERIA.

I have just hunted up and read the Congo article in the Herald of the 16th February. As a law argument, it is conclusive. So far as the United States are concerned, does not Liberia settle the question? Had it not been for Mr. Monroe's construction of the act of Congress in regard to recaptured Africans, there might have been no Liberia. Obligated to return slaves rescued by our cruisers from the slave-ships to Africa, he seems to have bethought him of the American Colonization Society, then struggling for life, after disheartening failures to establish a colony for free negroes from the United States on that continent; and, adopting the society as his agent, and the society's agent as his own, he furnished the money that enabled the society to fit out and send to Africa the ship Elizabeth, which landed its emigrants at Memona, then Cape Mesurada, a spot that had been previously selected by Captain Stockton, United States Navy, on the voyage of exploration which the President had authorized for the purpose. The land was purchased from the native kings, under just such treaties as Stanley has now been making, and a place was thus obtained by a benevolent society in the United States to which our Government has since sent all recaptured African slaves, a society which adopted a flag, established a form of Government, and which continued by its agents to manage public affairs until it transferred the rights obtained from the natives, governors or chiefs, to the present republic of Liberia, which you know all about.

And, when the colonists attempted to enforce their customs regulations against British traders within their boundaries, Mr. Fox, then British Minister, made a "fuss," and there was a correspondence with Mr. Upshur, Secretary of State, which, if you had time to go over it, would be found not uninteresting. But there was no question about the right of the colonists, or rather the society in the first instance, and afterwards the republic, as derived from the aboriginal owners of the soil.

I have directed Mr. Coppinger, the Secretary of the American Colonization Society, to call on you with a statement made to Mr. Evarts, when the difficulty with England about the northwest boundary of Liberia arose, and in which the whole matter of native deeds or treaties is discussed.

Subsequently to the founding of Liberia, the State of Maryland appropriated \$200,000 to founding the Colony of Lubyland, in Liberia, at Cape Palmas. I had much to do with this. The State Society, of which I was President, sent an expedition with emigrants, in 1834, who carried with them a bill of rights and an ordinance for their temporary government; and, a purchase by treaty from the native kings having been made, established themselves at Cape Palmas. Presbyterian missionaries went along. They employed a colonist as a teacher, who, being fined for not attending parade as a colonist, caused a disturbance that brought the Secretary of the American Board of Foreign Missions to Baltimore, who denied the right of the Colonization Society to interfere with the servants of the mission. I insisted that the society was *de jure et de facto* the sovereign by transfer from the native king, and that the mission servant was bound to obey the agent of the colony in the exercise of his authority under the ordinance quite as much as if he had been summoned and fined in England.

Mr. Anderson, the secretary, after a full discussion, admitted this to be true, and the mission was removed to the Gaboon.

In the boundary question, which Mr. Frelinghuysen knows all about, the only point was the sufficiency of the deeds or treaties with the kings; no dispute as to their right to convey, if properly exercised, was made.

So far, then, as the United States may be interested in the question, has not our experience, as I have attempted to narrate it, as briefly as I could, sufficiently satisfied us?

EXTRACTS FROM LORD MAYO'S "DE REBUS AFRICANUS."

We have now arrived at Banana Creek, in latitude 6° S., at the mouth of the Congo, where the principal trading houses are the following: The Dutch Company, of Rotterdam, a large, long-established, and wealthy association; the Congo and Central Africa Company, limited, of Liverpool, which it must be remembered is essentially an English company, carried on with English capital; and Danmaas, Berand & Co., of Paris. Very nearly all the principal ground at Banana Creek is occupied by those three firms, and a little higher up the creek are two small stores, one belonging to a Spaniard named José Del Valla, an old slave trader, and a man of very bad reputation for his well-known inhumanity towards the niggers. This man does a small trade in ivory, and is associated with a Portuguese, Azevedo, also an old slave dealer, bearing a very similar character. These two traders sometimes hoist the Spanish flag and at other times the Portuguese. The trade they do is of no importance. The other store belongs to a man named De Souza, who trades for Messrs. Hutton and Cookson, of Liverpool. These are all the trading houses existing at Banana Creek. The Baptist mission some time ago were permitted by Danmaas, Berand & Co. to build a house on some land belonging to that firm; but lately the French house sold the ground to the Belgian International Association, under the management of Mr. Stanley, and they have requested the Baptist Mission to evacuate the ground.

[Extract from letter.]

"MARCH, 1882.

"There are no special statistics of the Congo trade, but it is known that in good seasons the Congo has exported about thirty thousand tons of African produce, the greatest part to England and Holland. It is also known that no less than two and a half millions sterling of English manufactured goods find their way to the Congo and district, and Portugal has not imported or exported to the Congo one single ton; in fact she has no trade of any kind in all the neutral territory from Kinsembo down to Kabenda, nor at the Congo."

As to the Belgian International Association, the following correspondence may be of interest as showing the status and position of the association:

GEOGRAPHICAL SOCIETY OF LISBON.

I.

SIR: The discussion which has been raised by the recent conferences and letters of Mr. Savorgnan de Brazza, and the character of certain statements which have been made, directly attacking Portuguese rights and dealing a blow at historical and geographical recognised and established facts, oblige the National Portuguese Committee, as well as the Geographical Society by which it was founded, to occupy itself on this question and to adopt such an attitude as will be consistent with the interests and rights of the nation we have the honor to represent. * * * You are probably aware that the parallels 5° 12' and 18° S. have for centuries determined the limits of Portuguese dominion on the western coast of Africa. You are also aware that several countries have agreed to the generous plan of the King of the Belgians, for the creation of an International African Association, of a purely philanthropic and civilizing character, and excluding absolutely and formally all ideas of politics. It is exactly this fact, we think, which asserts the internationality of the African Association, and they have adopted as a proof of their character a special banner for their explorations.

In view of the duties devolving on us and the information which it is essential for us to have, I have the honor to beg you will announce the following questions as soon as possible for the information of the Geographical Society at their next meeting, when they will decide upon the line of conduct they intend to adopt.

1st. Are Messrs. Stanley and Savorgnan de Brazza to be considered as the explorers of the International African Association, and as such to be quite subordinate to the purely scientific and humanitarian intentions of the said association, excluding absolutely all individual ideas and all political mission or authority?

2d. Are these gentlemen authorized by the International Association, or with the

knowledge and sanction of the same, to display on their expeditions or at their stations any national flag, or to effect in the name of any country treaties and compacts of a political nature?

3d. Does the International Association (which has refused to accept any political character or authority) undertake the responsibility of manifestoes, intrigues, and intentions of such nature, on the part of its explorers, towards the native populations and other people?

In the interest of this cause, which is common to us all, so long as it is maintained in its original noble principles, and praying for you to excuse our importunity, and awaiting your information, we beg you, sir, to accept the assurance of our esteem and high consideration.

(From the first secretary, Luciano Coroleiro, to the secretary-general of the International African Association.)

LISBON, *October 13, 1882.*

II.

AFRICAN INTERNATIONAL ASSOCIATION,

Brussels, October 25, 1882.

SIR: I will not delay in answering the questions you have put to me in your letter of the 13th of October.

1st. As far as the International African Association knows, M. de Brazza had a mission from the French committee of the Association, and grants from the French executive. Stanley, on the contrary, is in the service of the International Committee of Science, who have commissioned him to found scientific and halting stations on the Congo, and also to furnish them with any elements of study likely to further any enterprise in that country.

2d. The flag of the Association is the only one that is hoisted over the stations Stanley has established. Belgium, as a state, does not wish to possess either a province or even an inch of territory in Africa.

3d. The Association holds to its published rules, and its line of conduct is regulated by the same.

I profit by this occasion, sir, to assure you of my highest consideration.

The secretary-general, STRANCH.

We will now imagine ourselves proceeding up the river Congo. The next place we come to after Banana Creek is Quissanga, on the left bank, where the Congo and Central African Company have a trading house.

A little further, on the right bank, is Cassala, and then on the left bank Chiauga, opposite which is Embomba, at each of which places there is also a trading factory belonging to the Congo and Central African Trading Company.

At Embomba there are several small places belonging to the Dutch Company, the Congo Company, and Danmas, Berand & Co., and also some very small huts occupied by Portuguese trading with the above-mentioned three firms.

Hutton & Cookson, of Liverpool, and the Belgian International Association have houses here, and a Portuguese, named Rosa, a runaway from Loanda three years ago, for being implicated in a forgery of Loanda bank-notes, has a store and trades with the natives, afterwards selling the produce to the foreign houses. This trade, however, is of no importance.

Twenty-four miles above Embomba, at Mussuca, there are three or four stores in different places, also chiefly belonging to the houses already mentioned, and the only further place of importance below the Yellala Falls is Vivi, 16 miles from Mussuca, a station of the Belgian International Association, the last point that small steamers now attain on this reach of the river, as the current formed by the Yellala falls, some short distance up, prevents their going any further.

On the next reach of the river the Belgian International Association have established the station Isaugila, 31 miles from Vivi.

We now reach Manyanga, 80 miles from Vivi, then Lutètè, and then Stanley Pool, where Leopoldville, 135 miles from Manyanga, the headquarters of the Belgian International Association, is established.

Ibalua Nhtonon is the next station of the Belgian Association, and last of all Bolobo, which is 480 miles from the mouth of the Congo, and has only just been founded, and was reached by the little steamer Entrant, which little vessel had been carried up by porters and put together and launched in the upper waters of the Congo.

We now see that, up to the latest information from "the coast," Bolobo is the furthest-most settled point in the upper waters of the Congo, and it is undoubted how greatly this trade has developed, and how the Congo has been opened up, first by Stanley, then by De Brazza, and also by English and Dutch capital, to the almost total exclusion of the Portuguese, whose rule and exactions bring misery and slavery to all parts of this vast continent wherever they put their heel down. The Portuguese power and prestige in Southwest Africa has been on the decline since Portugal became annexed to Spain in 1580, until their power in the Congo now is almost nil. The second part

of this pamphlet deals with the Portuguese colonies and possessions, and from that it will be seen with what a dog-in-the-manger spirit they have carried on their government. Therefore, to recapitulate, the interests represented in the Congo are these, taking them in order according to the amount of capital which each nation has embarked in the Congo, viz: England, Holland, Belgium, and France. I do not mention Portugal because, as will be seen from the remarks under the head of Banana Creek, they have no real interest in the Congo.

Having now taken my readers right up the Congo to its furthestmost civilized station, we will now imagine ourselves once more at Banana Creek. We are now, after leaving the mouth of the Congo, in territory which is independent, but which is claimed by Portugal, and still proceeding south in the English steamer.

The next stop is at Moculla, a few trading houses belonging to A. Conguy Aine, Danmas, Berand & Co., and J. McFarlane are here on an open beach.

We now halt at Ambrizette, where there are trading houses carried on by Hatton & Cookson, A. Conguy Aine, Danmas, Berand & Co., and the Congo and Central African Trading Company, and Taylor Logland, of Glasgow.

At Mussera, A. Conguy Aine, Danmas, Berand & Co., are established.

Next, Kinsembo, another trading station on a sandy beach, the houses of which belong to Taylor, Logland, Danmas, Berand & Co., Stewart & Douglas, and A. Conguy Aine.

About ten and a half miles south of Kinsembo is the mouth of the little river Loge (lat. 70° 51' S.), at present the *northern boundary of the Portuguese territory*.

Beyond this limit our men-of-war have strict orders not to allow the Portuguese Government to hoist any flag or exercise any sovereignty rights whatsoever. In case of their so doing, the orders are very stringent, going so far as to allow of our insisting on their hauling down the flag at once. * * * Having now shortly sketched the present inland boundaries of the Portuguese colonies, I must take my readers back to the coast and continue south in the English coasting steamer which we left at Kinsembo. Ambriz, our next stop, the most northern seaport of Angola, up to the year 1855 was in the hands of the natives, and was one of the principal ports for shipping and trading slaves from the interior. There were also American and Liverpool houses trading in gum, malachite, and ivory, and selling many Manchester and other goods to dealers from Cuba and the Brazils, with which goods slaves from the interior were bought by barter from the natives. Then all trade was free from impost and restriction, but as soon as the Portuguese got possession of the place they, in accordance with their usual policy, at once established a custom-house and levied heavy and prohibitive duties on all goods imported. Successful trading under these circumstances was, of course, impossible.

"The duties originally fixed at Ambriz by the Portuguese, when they occupied the place in 1856, were 6 per cent. *ad valorem*, which they promised not to increase, in order to induce the traders there at the time to remain; but, notwithstanding this, most, if not all, of the foreign traders removed to Kinsembo, it being neutral port. Later on the Portuguese added to the Ambriz duties 2 per cent. *ad valorem* for municipal works; and about one year ago the following taxes, which had not previously existed, were also imposed on the traders: Income tax, 10 per cent.; house duty, 6 per cent.; property tax, 10 per cent.; transfer of property, 6 per cent."

The same taxes are levied at Angola.

If the Portuguese are to be allowed any sovereignty rights north of Ambriz, which rights they are trying to get recognized by the British Government, they will soon find means of setting aside promises which they may now make, just as they have done in the case of Ambriz, and impose similar duties to those paid at Angola.

"Besides all these duties and taxes, the delays experienced at the custom-houses in Angola and Ambriz, and the impositions practiced by their officers (most of whom have only small salaries and depend to a great extent on fees charged for the clearance of vessels and on goods exported and imported) are the great cause of the non-prosperity of the Portuguese ports, compared with the Congo and all the other places north of Ambriz, at present neutral. If a merchant at Loando, or at any of the other places occupied by the Portuguese, requires to send an open boat of three or four tons burden to any of his factories within the said territory, it takes him, in most instances, from two to three days to clear this boat at the custom-house and other Government offices. Goods also that have already passed the custom-house, paid the duties, and been warehoused in the merchants' stores, have, when it is necessary to send them by any of the above-mentioned boats to the factories, to be taken to the custom-house yard, which is the only place whence such shipments are permitted to be made, and there again cleared, necessitating the payment of further fees to the officers for clearing and being present at their shipment. All these requirements of the custom-house involve the payment of further fees by the merchants, and the loss of time and money caused by the innumerable impositions is only too well known to every one engaged in the trade."

After this the trade at Ambriz languished to such a degree as to be of little or no importance.

The following are the duties and taxes now levied by the Portuguese in the province of Angola. English manufactured goods pay as below :

Gray domestics, 4*d.* per pound; bleached domestics, 6*d.* per pound; striped domestics, prints, regattas, and all colored cotton goods, 10*d.* per pound; woolens or Union baize blankets, &c., 10*d.* per pound; woolen or Union cloth for trousering, &c., 1*s.* 5*d.* per pound; linens, 1*s.* per pound; silks, 5*s.* per pound; silk and cotton mixed, 3*s.* per pound; cutlery and earthenware, 25 per cent. ad valorem.

Ready-made clothing, same as above on the material and 50 per cent. extra for being made.

Copper and metal, 1*d.* per pound; copper and metal, manufactured, 7*d.* per pound; iron, zinc, or lead, manufactured, 2½*d.* per pound.

These duties are levied in full if the goods go direct from England; but if they go to Lisbon, paying there a duty of 1½ per cent. ad valorem, and 3 per cent. for additional expenses of landing, reshipping, &c., and are shipped from there by a Portuguese vessel, on their arrival in Africa such goods are only charged 70 per cent. of the duties already enumerated.

It is somewhat surprising that the Portuguese have been allowed to exercise their own sweet will for so long a time. Any other people than the remarkably inoffensive and unwarlike natives of this part of Africa would have driven them into the sea long ago.

Catumbella, the name of which is taken from the river on which it stands, is the next place. There is a fort at the entrance of the river which goes a considerable distance inland. It is from here that slaves are shipped to St. Thomas on the Line.

With regard to the much-vexed slavery question, it may be stated with truth that slaves can be bought and sold still in the provinces of the Portuguese colonies. In 1878 the Portuguese Government abolished the slave trade in all their possessions, but means were found to carry on the traffic under another name. What really goes on in the Portuguese dominions on the southwest coast is as follows: The Portuguese possess the island of St. Thomas on the Line, the capital, Santa Anna, being only 21½ miles north of the equator, and also Prince's Island, where there are no aborigines, and where most valuable land, capable of producing any kind of crops, is unable to be cultivated unless labor is imported. They have got over the difficulty by importing what they call "colonials."

At Catumbella, some 7 miles north of Benguella, the natives are brought down by agents from the interior, the agents stating that they are natives freed from the slavery which they were in to their own chiefs; in fact, they are only bought from the chiefs, the retail price being about £7 each. They are brought in lighters to Benguella to Catumbella, and then taken to Loando, in the Portuguese mail steamer, where a certain form is gone through. Their names, ages, and descriptions are taken by the Government officials, and they are asked a number of silly questions, such as, "Are you hungry?" "Have you had anything to eat?" or, "Do you want any food?" in order that the affirmative "yes" may be elicited, and put down as declaring their willingness to go and labor at St. Thomas for five years. The Government officials, of course, get their fees for each contract. Then the agent proceeds to ship these niggers by Portuguese mail boats from Loando to St. Thomas on the Line. The negroes are provided with a wooden spoon, and, I believe, some tin platters, and a certain amount of cotton stuff for clothing; then they are examined by a doctor, and shipped off as deck passengers to St. Thomas. In the steamer by which I came home there were eighty-two of these African natives, men and women, on their way to the island. If the women are good-looking, they become the mistresses of the Portuguese planters; if they are ugly, they go into the fields and work. They are paid about two pence a day, and provided with food and lodging.

The great curse of the system is that any planter, after he has received his consignment of black laborers, can go down to Santa Anna, the capital of St. Thomas, and recontract these natives, without consulting them, for another term of five or seven years. That this is virtually slavery cannot be denied. The natives, when laboring at St. Thomas, are treated well, but none of them ever see Africa again. It is not exaggeration to say that this rule is invariable. They suffer very much from *nostalgia* (homesickness), and go to St. Thomas only to work and die. These are bare, unvarnished facts.

We will now endeavor to find the best and most efficient means of stopping this traffic in human flesh. If Her Majesty's gunboats on the coast had orders to board all lighters and Portuguese steamers coming from Catumbella, an action which I believe they have a perfect right to take, and demand any papers relating to any natives on board such lighters or steamers, the traffic would, in my opinion, cease at once. Coolie labor to the Brazils was stopped at Macao, west of Hong-Kong, and there is no reason why it should not be stopped here. Of course the Portuguese would say that these "contracts" were fair transactions between themselves and the natives; that the latter

are not really slaves, but are paid laborers' wages and contract themselves of their own free will. And they would also say, and with truth, that if "colonials" for St. Thomas were stopped, everybody in that island would be ruined.

With regard to the domestic slavery that exists in Portuguese Angola and adjacent provinces, I must quote the words of the late Joaquim J. Monteiro, who, for many years, was engaged in mining work and trading on the coast of Angola:

"There is very little cruelty attending the state of slavery among the natives at Angola, I believe I may say even in the greater part of the rest of tropical Africa, but I will restrict myself to the part of which I have an intimate knowledge. It is a domestic institution, and has existed as at present since time immemorial; and there is no more disgrace or discredit in having been born of slave parents, and consequently in being a slave, than there is in Europe in being born of the dependents or servants of an ancestral house and continuing in its service in the same manner.

"There is something patriarchal in the state of bondage among the negroes if we look at it from an African point of view (I must again impress upon my readers that all my remarks apply to Angola and the adjacent provinces). The freeman or owner and his wife have to supply their slaves with proper food and clothing; to tend them in sickness as their own children; to get them husbands or wives, as the case may be; supply them with the means of celebrating their festivals, such as their marriages, births, or burials, in nearly the same way as among themselves. The slaves, in fact, are considered as their family and are always spoken of as "my son" or "my daughter." If the daughters of slaves are chosen as wives or concubines by their owners or other freemen, it is considered an honor, and their children, though looked upon as slaves, are entitled to special consideration. There is consequently no cruelty or hardship attending the state of slavery. A male slave cannot be made by his master to cultivate the ground, which is women's work, and the mistress and her slaves till the ground together. A stranger set down in Angola, and not aware of the existence of slavery, would hardly discover that such an institution prevailed so universally among them, so little apparent difference is there between master and slave. A not very dissimilar condition of things existed in feral times in England and other countries."

With regard to my own personal observations and experiences on the coast I fully indorse what Mr. Joaquim Monteiro says. Of course I have heard of cruelties practiced by masters on their slaves, but cases of cruelty are really few and far between. Although I totally disapprove of the practice of exporting slaves from their own country, yet the negro, pure and simple, when he is clothed, fed, and to a certain extent civilized in domestic slavery, is a great deal better off than when working in his own native village, and, I believe, if consulted, would say a great deal happier. This I hope will explain the actual state and status of slavery and slaves in the Portuguese possessions in Southwest Africa.

(Copy of correspondence of the Manchester Chamber of Commerce and the secretary of state for foreign affairs.)

TRADE ON THE RIVER CONGO.

CHAMBER OF COMMERCE,
Manchester, May 30, 1881.

MY LORD: The interest which Great Britain has so long taken in the extension and welfare of the trade with Africa induces the Chamber of Commerce of Manchester to address Her Majesty's Government whenever it feels that British influence there is being weakened and that commerce is in any way restricted.

In 1876 this chamber had occasion to appeal to her Majesty's Government relative to pretensions put forward in Lisbon, and to a proclamation issued by the governor-general of the Portuguese settlement, St. Paul de Loando, for the purpose of assuming rights of sovereignty, and of affecting the freedom of trade and navigation of the river Congo, and in the adjacent territories, between latitude 5° 12' and 8° south. At that time Her Majesty's Government made such representations to the Government of Portugal that this proclamation was immediately canceled, and the governor-general of St. Paul de Loando was instructed to return to the *status quo* and afford every facility to commerce.

Until lately Portugal has not attempted to interrupt the progress of British commerce in that part of West Africa.

Under the rule of the native chiefs peace has prevailed, the slave trade has been abandoned, and commerce has been rapidly extending. Merchants have purchased property and sunk considerable capital in the Congo and the adjacent territory, believing that Her Majesty's Government could assist them when in difficulty, and that

Great Britain would never give her sanction to any attempt on the part of Portugal to interfere with her trade.

In addition to the monthly mail to the southwest coast of Africa, two firms have steamers running there regularly, and several coasting steamers are permanently employed in this trade.

His Majesty the King of the Belgians has, during the last two years, incurred considerable expense in an expedition to the Upper Congo for the purposes of opening roads, establishing stations for trade, and for communication with the vast tribes inhabiting the interior of Africa. For the result of this expedition merchants are watching with interest, believing that this river will ultimately become one of the great highways for trade in the heart of Africa.

The chamber has not been able to obtain any reliable estimate of the value of the trade of this part of Africa with Great Britain, especially because a large amount of British manufactures intended for the trade is exported to France and to Holland for re-exportation from these countries to Africa; but the industry of Lancashire has so large a share of this trade, both direct and indirect, that views with anxiety any attempt to put restrictions upon it.

The Chamber of Commerce of Manchester has learnt that Her Majesty's Government has been lately requested to concede to Portugal the claims put forward by her to the Congo and to the territory between latitudes $5^{\circ} 12'$ and 8° south. The Lisbon *Commercio de Portugal* of the 20th instant states that negotiations will shortly be opened for determining the basis of a treaty with Great Britain guaranteeing to Portugal the exclusive possession of the territory between the Ambris and the Congo. The alarm felt by British merchants and by this chamber is justified by other statements which arrive from Africa regarding missions of naval and military Portuguese officers, both to the King of Congo and to the chiefs of Cabendo and of the adjacent territory. More than once during the last seventy years Portugal has attempted to establish her pretensions to the Congo and to the territory named north of 8° south latitude, and not only has the Government of Great Britain always refused to acknowledge such claims, but has resisted by armed force each attempt of the Government of Portugal to interfere with native rule and with the rights of British merchants. In November, 1853, Her Majesty's foreign minister, Lord Clarendon, wrote as follows to the Portuguese minister in London:

"It is, therefore, both manifest and notorious that the African tribes who inhabit the coast-line claimed by Portugal, between $5^{\circ} 12'$ and 8° south latitude, are in reality independent, and that the right acquired by Portugal from priority of discovery at the end of the fifteenth century has for a long time been suffered to lapse, owing to the Portuguese Government not having occupied the country so discovered. In the presence of these facts the undersigned must repeat the declaration of Her Majesty's Government that the interests of commerce imperatively required it to maintain the right of unrestricted intercourse with that part of the coast of Western Africa extending between $5^{\circ} 12'$ and the 8th degree of south latitude."

The advent of the Portuguese Government to the Congo and to the adjacent territory would not only disturb the peace of the country, but it would cause the ruin of the trade and blight all hopes of increased intercourse and commerce with the tribes of the interior. Therefore the Chamber of Commerce of Manchester respectfully prays that Her Majesty's Government will maintain towards Portugal the same attitude which has been adopted by previous British Governments, and that British merchants may receive such assurance as will enable them to continue, without hesitation or interruption, the extension of their trade, which each year is becoming more valuable to this country.

This chamber is also desirous of urging upon the consideration of Her Majesty's Government its anxiety regarding the action of European powers in making exclusive treaties, which interfere with free trade and navigation in Africa. It has been informed that a treaty has been concluded between the French Government of Senegal and the King of Sego, on the Niger, excluding all other nations from trade in that country and from navigation on the Niger from its sources to Timbuctoo. Although the trade at present existing may be small, traders from Gambia have for many years been in direct communication with the natives of the Sego country. It is within 400 miles of the British possessions of Gambia and Sierra Leone, and the sources of the Niger are within 200 miles of British territory.

Hitherto the trade of Great Britain with Western Africa has been carried on mainly on the sea-coast, but her trade is gradually extending into the interior, and the further merchants penetrate inland the more they find the natives industrious and desirous of peaceful intercourse and trade. The interference of Her Majesty's officers is seldom required, but more frequent visits on their part to the different trading stations would be of advantage, as British merchants feel that the nature of African commerce does call for protection and fostering attention from their Government.

A large amount of capital is now invested in the trade of the different rivers on the west coast of Africa, and the industry of this district has a considerable interest in its

prosperity. This chamber would, therefore, view with deep concern countenance given by Her Majesty's Government to any action of foreign powers which might tend to interrupt the free course of trade, or to weaken the influence or the prestige of Great Britain with the natives of Africa.

I have the honor to be, my lord, your lordship's obedient, very humble servant,
 JOHN SLAGG,
President.

The right honorable the Earl GRANVILLE, K. G., &c.
Secretary of State for Foreign Affairs, Foreign Office, London.

FOREIGN OFFICE, June 30, 1881.

SIR: I am directed by Earl Granville to acknowledge the receipt of your letter of the 30th ultimo, containing representations as to the action of certain European powers in Western Africa, with special reference to the claims put forward by Portugal to the territory lying between latitude 5° 12' and 8° south, and to a treaty said to have been concluded between the Government of Senegal and the King of Sego on the Niger, and I am to inform you in reply that your communication shall receive due consideration.

I am, &c.,

T. V. LISTER.

The PRESIDENT OF THE CHAMBER OF COMMERCE, *Manchester.*

To the right honorable the Earl GRANVILLE, K. G., &c.
Her Majesty's Secretary of State for Foreign Affairs:

The memorial of the directors of the Manchester Chamber of Commerce, by their chairman, respectfully sheweth—

That your memorialists desire respectfully to bring under your lordship's consideration the important interests of Great Britain in the trade of the southwest coast of Africa, and more especially in the commerce with those native countries where its interests are threatened under pretensions put forward by European powers, and through exclusive treaties being made with native chiefs by officers of the Government powers.

That the suppression of the slave trade in Western Africa has permitted England to withdraw its fleet almost altogether from that coast; but as legitimate commerce has supplanted the former nefarious traffic, so has the necessity increased for Great Britain to maintain friendly relations with the native chiefs, and to exert a civilizing influence over African states, whereby the commerce of England in Western Africa will be fostered and rapidly extended. This Chamber has previously addressed Her Majesty's Government on occasions when the freedom and welfare of the trade of Great Britain appeared to be threatened, and only recently communicated its views relative to claims put forward by Portugal, on that country assuming exclusive rights on the River Congo and over the bordering states. The recent expedition of the International Society, under Monsieur de Brazza, an officer of the French Government, and the publication of a treaty entered into for the annexation to France of territory on the Congo, will, as your memorialists would humbly submit, justify a further representation regarding the future freedom of the trade of those regions.

Although Her Majesty's consul on the southwest coast of Africa, who resides at St. Paul de Loando, has jurisdiction over the native states to the north of the Portuguese possessions, he has not at his disposal the means of watching over British interests where his presence is most needed, and especially on the Congo, and at those ports where trade flourishes under native rule along a coast of over 500 miles in extent.

This chamber would, therefore, respectfully pray that your lordship will favorably consider the necessity for the appointment of a resident British consul or consular agent, whose duty shall be essentially that of watching over the interests and trade of Great Britain on the Congo and on the neutral coasts between the French and Portuguese possessions, and in order that he may be able to visit frequently, and to maintain constant communication with the natives of different tribes, and at all times to keep Her Majesty fully informed regarding the condition and progress of trade, this chamber would venture to suggest the important advantages to be derived by a steamer or gunboat being permanently stationed on the southwest coast, and placed at the disposal of the consul or consular agent appointed there. By this means respect will be insured for the Government and for the commerce of Great Britain, and both English merchants and native traders will know that from Her Majesty's representative they can at all times seek for advice in any difficulties or disputes which may arise.

Through the important discoveries during recent years on the Congo and on its tributaries greater interests than those of the industry of Lancashire, and of even the trade of Great Britain, are becoming involved. Europe now seeks to promote the civilization and enlightenment of Central Africa, and to extend peaceful intercourse with its vast populations. Great Britain stands among the first countries to reap the advantages of this development of trade, and the Chamber of Commerce at Manchester would be among the foremost to submit for the consideration of your lordship the important prospective interests at stake.

Your memorialists would therefore pray that the earnest endeavors of Her Majesty's Government may be directed towards promoting a friendly understanding with the respective Governments of Europe and of the United States in order that the sovereign and territorial rights of the Congo and of the adjacent neutral territories may be respected and maintained, and that in future there shall be no interference on the part of any power with the existing freedom of navigation and commerce on that river and its tributaries.

And your memorialists will ever pray.

GEORGE LORD,
President.
THOMAS BROWNING,
Secretary.

MANCHESTER, November 13, 1882.

CHAMBER OF COMMERCE,
Manchester, January 29, 1883.

MY LORD: On the 13th of November last this chamber addressed to your lordship a memorial on the affairs of the southwest coast of Africa, praying more especially that the earnest endeavors of Her Majesty's Government might be directed towards promoting a friendly understanding with other powers in order that the sovereign and territorial rights of the natives of the Congo and the adjacent neutral territories might be respected and maintained. The chamber has not been favored with any reply to this memorial, but, since last addressing your lordship, has learned that Her Majesty's Government has received, and views with favorable consideration, proposals from the Government of Portugal to the effect that on certain concessions being made by her, she shall be allowed to annex the whole of the native territory lying between latitude 5° 12' and latitude 8° south, including the river Congo. If the sanction of Her Majesty's Government be given to such annexation, the policy of Great Britain during the whole of this century will be reversed, and the greater part of the trade now conducted on the southwest coast of Africa must fall under the control of Portugal. It is scarcely necessary to remind your lordship that although Portugal has for centuries held 700 miles of coast line of adjacent territory on the west coast, and 1,200 miles on the east coast of Africa, she has not yet succeeded in developing any important legitimate trade, nor even civilization, in her African possessions; and this chamber cannot but feel that her present pretensions are being urged upon Her Majesty's Government in a great measure because Portugal sees that the real and substantial progress of trade which has been going on during the past thirty years, extends over this small strip of territory to the north of her dominions. Also, since the discovery of Mr. H. M. Stanley of the importance of the river Congo, Portugal fears that the future commerce of the interior of Africa will pass through channels where civilization is extending, and where there is no hindrance to the freedom of trade and navigation.

The chamber would call the attention of your lordship to the British customs returns which show that the average direct exports of Great Britain to the whole of the Portuguese possessions both in East and West Africa, extending over 1,900 miles of coast line, have not exceeded during the past eight years, 1874-1881, inclusive, £180,000 per annum; while it is estimated, by merchants engaged in the trade, that there are exported annually three times that amount of British manufactures solely to the Congo and the adjacent native territory. It is to the annexation of the banks of this important river and outlet from the center of Africa, and to the sole control over this branch of British trade, that the sanction of Her Majesty's Government is now sought by Portugal. Although this chamber has on several previous occasions prayed Her Majesty's Government not to recognize these pretensions of Portugal, it would fail in its duty to the important interests which it represents were it to delay submitting to your lordship a respectful but earnest protest against the recognition by Her Majesty's Government of any annexation of the native territories both on and adjacent to the Congo, and also against the sanction of Her Majesty's Government being given to the slightest interference with that complete freedom of navigation and commerce which for many years has been, and is still, enjoyed by British merchants in Western Africa.

I have the honor, &c.,

GEO. LORD,
President.

FOREIGN OFFICE, February 3, 1883.

SIR: In acknowledging the receipt of your letter of the 29th ultimo, relating to the position of affairs on the Congo, I am directed by Earl Granville to express to you his regret that, by inadvertence, no acknowledgment was sent to you of your letter on the same subject of the 13th of November last, and to inform you that your observations will receive due attention.

I am, &c.,

T. V. LISTER.

To the Secretary Chamber of Commerce, Manchester.

* * * * *

This brings us down to the present month, during which some questions on the subject have been asked in the House of Commons by the Right Honorable Robert Bourke, and in the House of Lords by Lord Mount Temple. I think it is important to people interested in the Congo to have the whole of Lord Mount Temple's question, and also the whole of Earl Granville's reply given on March 9, instant.

THE CONGO.

"**LORD MOUNT TEMPLE.** I wish to ask the secretary of state for foreign affairs, whether it is in the contemplation of Her Majesty's Government to recognize the claim of Portugal to dominion over the territory adjoining the river Congo; and, if so, whether he has reason to anticipate that the policy that has hitherto prevailed in that territory will be reversed in regard to the slave trade and freedom of commerce. I have been prompted in this matter by the alarm of the manufacturers and merchants concerned in the trade of this district. They are of the opinion that if the Portuguese should succeed in exercising a sovereign jurisdiction over the native tribes of that country, the restrictive and interfering policy which has hitherto been characteristic of the Portuguese Government would seriously interfere with the existing trade, and would also prevent that full development of it which is now anticipated. There is every reason to believe that hereafter the river Congo may become the great highway of the inland tribes, who are industrious and peaceful, and ready to enter into commercial relationship with Europeans.

EARL GRANVILLE. I am glad that the noble lord has put this question, because I hope it will enable me to put an end to misapprehensions which seem to exist, and which, to a certain extent, are shared by himself as to this important matter. It appears to be supposed by some that Her Majesty's Government propose to give up a vast extent of territory which belongs to this country, with some vague hope that the Portuguese will furnish an obstacle to the ambitious designs of other powers. The noble lord is not misinformed to this extent, but even he has considerable misapprehensions on the subject. I do not think it is unnatural that those who have taken a great interest, either in the question of slavery, or in the question of religious efforts, or of questions of trade and commerce in these countries, should feel most sensitive with regard to any proceedings that are likely to be taken. It is not so very long ago that the interests of Europeans on the Congo and other African rivers were centered in the desire of monopolizing the slave trade. It would be a great glory for this country that she took the lead in reversing this policy, and leading the way to a suppression of this abominable traffic. But a great change has come over the African question. The labors of men like Livingston, Stanley, and others have given us a knowledge of the physical character of central Africa, and of the populations which inhabit it, showing that there are great capabilities for the development of trade, and of the civilizing effects which are the result of commerce. The work of the Philanthropic International Association, in which the King of the Belgians takes a great interest, the mission of M. de Brazza, the increasing trade in different degrees, of the English, the Portuguese, the French, the Germans, the Dutch, and the Belgians, on the Congo and its banks, are acting as a stimulus and afford grounds why no reasonable endeavors should be neglected to insure freedom of commerce and navigation, and to anticipate possible jealousies, which so easily check trade, and which, under the pretense of securing peculiar advantages to some, are really injurious to all. There is much now which is not satisfactory on the Congo. In those territories which we acknowledge to belong to Portugal complaints are made of high duties, of a differential treatment of the foreign and Portuguese flags, of arbitrary fines, and other vexations, greatly impeding commercial intercourse. On the Congo itself the Portuguese declare that the slave trade is entirely at an end, and there can be no doubt that it is greatly diminished—partly owing to the cessation of the transatlantic demand for slaves, partly to a change of policy on the part of the Portuguese Government. There are territories on the Congo to which the Portuguese lay a claim in the most solemn

manner in which it is possible for a nation to put it forward by diplomatic declarations and by legislative enactments, but which have been as constantly repudiated and resisted by us as a matter of right. Successive secretaries for foreign affairs have stated that the fear of encouraging the slave trade and the danger of interference with our commerce were the political reasons which induced them to lay further stress on the matter of right. The existing state of these territories is unsatisfactory as regards the present and the future. It is true that there are many respectable firms who manage to act fairly and harmoniously with the natives. But it cannot be denied that there is no acknowledged jurisdiction; that in places anarchy prevails; that there are cases of practical slavery, of cruelty, and then of retaliatory outrages without any opportunity for redress. It became thus a matter of some urgency to consider whether, without abandoning our position as to the matter of right, the political objections to which I have alluded could in any way be met. An important interchange of views took place in 1881 between our minister, Mr. (now Sir Robert) Morier and M. de Serpa, who initiated it. Last October M. de Serpa renewed this conversation. The chief object of Her Majesty's Government in assenting to the renewal of the conversation was stated by me to be to secure the abolition of slavery and the civilization of Africa by the extension of legitimate commerce. The Portuguese Government declared in still more emphatic terms that their objects were the same. They gave proof of their being in earnest by expressing their assent to the perfectly free navigation, not only of the Congo, but of other African rivers which are arteries of trade, and agreed, not only to establish in the territories which we have not recognized as belonging to Portugal, but in all the African possessions of Portugal, the liberal commercial system which was established in 1877 in Mozambique.

The general principles of the agreement do not offer any difficulty; but I am far from being sure of coming to an understanding on all of the conditions, which, in our view, are indispensable. It may be convenient that I should state what appear to us to be essential points. I need not say that the agreement as to dealing with slavery must be complete. Secondly, it is necessary there should be complete security that undue burdens, which do not now exist, should not be placed in any part of the Portuguese possessions upon missionaries, ship-owners, or traders. I said that it was supposed by some that we are giving away boundless territory which belonged to us.

We do no such thing. What we propose is that, without receding from the position of legality as to the right which is claimed, we should agree on the conditions which I have stated, together with some arrangements of a satisfactory character as to Whydah, to withdraw our objections for the future to Portuguese jurisdiction within certain defined geographical limits. This engagement ought not to be merely of a bilateral character. We will give our whole support to Portugal to obtain a similar assent from other powers.

I am far from being certain that these negotiations will be successful, but if a good treaty is obtained—and a bad one would be worse than nothing—I believe we shall strengthen the general principle of freedom of navigation and commerce on the great rivers of the world, and that in Africa itself we shall greatly advance the interests of civilization and commerce. It has been asked what security shall we have that the Portuguese will observe the conditions of any treaty. This is an argument which, if valid, is fatal to all treaties. [Hear, hear.] It would be unbecoming in my position to admit that this result would be likely to happen; but admitting it hypothetically, I would ask how we should have less moral and physical power to enforce the conditions of a treaty to which Portugal has consented, than that by which we now resist the claim of sovereignty which Portugal so thoroughly asserts. It would be wrong of me to go into great details on matters which are under negotiation, but I trust that the statements which I have made of the general character of the negotiations will be sufficient to enable this house to judge of the principles on which Her Majesty's Government are acting. [Cheers.]

At the present time the Portuguese have no rights or sovereignty north of the river Loge, latitude $7^{\circ} 50'$ south (approximate), so *nostrando parte du Congo* has no existence within the boundaries of their present southwest African colonies. In truth, "our part of the Congo," as they euphoniously call it, is quite neutral, and the merchants trading therein protected by the English gunboats on the station.

Portuguese rule, if allowed, means utter confusion and vexatious delays in mercantile business, and, also, local taxation which no treaty, if entered into, could possibly cover. I wish to most emphatically impress upon my readers this fact of local taxation; and all the promises Portugal may make they will find means to break, once that any capital is launched in the territories they now claim and would hold.

At the capital of Portuguese West Africa (St. Paul de Loando), the municipal government are bankrupt, and very often there is not enough money to pay the employés' wages. The Bank Ultramarino refuses to lend the town any money, as there is no security available to offer. A more wretched state of affairs can scarcely be imagined.

The monopoly given to the Quanza Steam Navigation Company paralyzes the trade in that river instead of largely opening up its very wide resources.

One might adduce many more rather less striking examples of Portuguese misrule and short-sighted government; but my English readers must be rather astounded at the fact that domestic slavery exists in the African colonies of Portugal, and that "colonials," or rather, in other or plainer words, slaves, are shipped every month from Catumbella to labor and die at St. Thomas on the line.

All these plain and unvarnished facts, which have come under my own personal notice, show what sort of things go on where Portugal ruins and rules her African territories.

I consider that if England were to acknowledge the claims of Portugal, the latter once established would seek in every way to evade the terms of any treaty that might be entered into. Former facts go to prove this.

In fact, the British merchants interested in the west and southwest coast trade pray that Portugal may be prevented from encroaching in any way whatsoever on the now neutral and independent territories, where the natives are tranquil and well disposed, and where the greatest of all civilizers, *English free trade*, flourishes.

TREATY OF VIVI.

M. August Sparhawk, agent of the International Expedition of the Upper Congo, acting in the name and for account of the *Comité d'études* of the Lower Congo, and Vivi Mavungu, Vivi Mku, Ngusu Mpanda, Benzane Congo, Kapita, have come together the 13th of June, 1880, at the station Vivi, in order to discuss and to decide upon certain measures of common interest.

After full examination they have arrived at the dispositions and engagements which are embodied in the present treaty, to wit:

ARTICLE 1. The aforesaid chiefs of the district of Vivi recognize that it is highly desirable that the *Comité d'études* of the Congo should create and develop in their states establishments calculated to foster commerce and trade and to assure to the country and its inhabitants the advantages which are the consequence thereof.

With this object they cede and abandon, in full property, to the *Comité d'études* the territory comprised within the following limits: To the west and north and east the left banks of the river Lulu, and to the south the districts of Kolu and Congo.

ART. 2. The chiefs of the district of Vivi solemnly declare that these territories form an integral part of their states, and that they are able freely to dispose of them.

ART. 3. The cession of the territories specified in the last paragraph of Article 1 is consented to in consideration of a present represented by the following articles and goods to each one: A uniform coat, a cap, a coral necklace, a knife; and a monthly gift to Vivi Mavungu of two pieces of cloth; to Vivi Mku of one piece of cloth; to to Ngusu Mpanda, one piece of cloth; to Benzane Congo, one piece of cloth; to Kapita, one piece of cloth.

ART. 4. The cession of the territory includes the abandonment by them and the transfer to the *Comité d'études* of all sovereign rights.

ART. 5. The *Comité d'études* engages itself expressly to leave to the natives the free enjoyment of the lands which they now cultivate to supply their needs. It promises to protect them and to defend their persons and their property against aggressions and encroachments, from whatsoever side, which shall attack their individual liberty or shall seek to take away from them the fruit of their labors.

ART. 6. The chiefs of the district of Vivi grant, besides, to the *Comité d'études*—

(1.) The cession of all the routes of communication now open to or to be opened throughout the whole extent of their states. If the *comité* deems it proper it shall have the right to establish and levy for its own profit tolls upon said routes to defray the expenses incurred in their construction. The routes thus opened shall embrace, besides the routes properly so-called, a breadth of twenty meters right and left therefrom. This breadth constitutes part of the cession, and shall be, like the route itself, the property of the *Comité d'étude*,

(2.) The right of trading freely with the natives who form part of their states.

(3.) The right of cultivating unoccupied lands; to open up the forests; to cut trees; to gather India rubber, copal, wax, honey, and, generally, all the natural productions which are found there; to fish in the rivers and streams and water-courses and to work the mines.

It is understood that the *comité* can exercise the several rights mentioned in the third paragraph throughout the whole extent of the states of the chiefs of Vivi.

7. The chiefs of the district of Vivi undertake to unite their forces to those of the *comité* to repel attacks which may be made by intruders, no matter of what color.

The chiefs, not knowing how to sign, have put their marks, in the presence of the witnesses hereafter designated and who have signed.

[SEAL.]

AUG. SPARHAWK.

[SEAL.]

JOHN KICKBRIGHT.

[SEAL.]

FRANK MAHONEY.

[SEAL.]

GEOFFREY.

TREATY OF LÉOPOLDVILLE.

29TH OF APRIL, 1883.

We, the undersigned, chiefs of the district of N'Kamo, of Kuiswangi, of Kimpe, and of all the districts extending from the river Congo to Léopoldville and to Ntamo, up to the river Lutess and the mountains of Sama Sankori, have resolved to put ourselves, as well as our heirs and descendants, under the protection and patronage of the *Comité d'études* of the Upper Congo, and to give power to its representative at Miamo to regulate all disputes and conflicts that may arise between us and foreigners of whatsoever color, residing out of the district or territory of N'Kamo, in order to prevent strangers, animated by wicked intentions or ignorant of our customs, from exciting embarrassments or endangering the peace and security and independence which we now enjoy.

By the present act we also resolve to adopt the flag of the *Comité d'études* of the Upper Congo, as a sign for each and all of us that we are under its sole protection.

We also solemnly and truly declare that this is the only contract we have ever made, and that we will never make any contract with any European or African without the concurrence and agreement of the *Comité d'études* of the Upper Congo.

To the above resolution we freely put our marks.

NGALIEMA,	his × mark.
MAKARI,	his × mark.
NUMBI,	his × mark.
MANWALE,	his × mark.
NYASKO,	his × mark.

TREATY OF MANYANGA.

During the *palabre* held at Manyanga the 12th of August, 1882, it is agreed between the members hereinafter designated of the expedition of the Upper Congo—

Dr. Edward Pechuel Loesche, chief of the expedition;

Capt. Edmund Hanssens, chief of the division of Léopold-Manyanga;

Lieut. Arthur Niles, chief of Manyanga;

First-Lieut. Orban, deputy chief of Manyanga;

Edward Ceris, assistant of Pechuel, representing the *comité* of the Upper Congo; and the chiefs hereafter named of Manyanga—

Makito, of Kintamba;

Nkosi, of Kintamba;

Filankuni, of Kintamba;

Maluka, of Kintamba;

Kuakala, of Kintamba;

Mankatula, of Kintamba-Kimbuku

Luamba, of Kintamba;

In the name of their subjects.

ARTICLE I. Hereafter the territory of Manyanga, heretofore belonging to the chiefs before cited, situated north and south of the river, and bounded on the west by the stream Luseto, and by the stream Msua Mungua on the east, shall be the sole property of the *Comité d'études* of the Upper Congo.

ART. II. The chiefs and their subjects, their villages, their plantations, their domestic animals, and fishing apparatus shall be placed under the protection of the Expedition.

ART. III. In all political affairs of the populations of the district protected and acquired, their quarrels, differences, elections of chiefs, shall be submitted to the decision of the member of the Expedition who shall be present at the station.

If the people of Manyanga shall be attacked by neighboring tribes, the Expedition shall defend their women and children and their property by all the means in their power. If the Expedition shall be attacked by another tribe, the men shall be bound to defend the station.

ART. IV. In consequence of the rights acquired and protection afforded, no stranger whatsoever can build or open a road or carry on commerce in the territory of Manyanga.

ART. V. At the request of the chief of the station, the chief of the district shall put at his disposition the necessary number of laborers, men or women, for the work of the station and the service of the caravans.

ART. VI. Besides the sum stipulated, which has been remitted in goods to the assembled chiefs in payment for their territories, and for which they have given a receipt, the chiefs shall receive monthly presents on condition that they remain true friends and voluntarily perform the services asked of them.

ART. VII. The first chief of Manyanga, Makito, residing at Kintamba, receives the flag of the Expedition, which he will raise in his village in sign of the protection exercised by the expedition.

(Here follow the crosses and signatures.)

TREATY WITH THE KING OF NIADI.

Stephanieville.

Between, on the one side, Captain John Grant Elliott, commissioner and representative of the *comité d'études* of the Upper Congo, and, on the other hand, King M'Wulu M'Boonga, King of Niadi, in his own name, and in that of his heirs and successors, the following contract has been made and signed in the presence of the witnesses whose signatures are below given:

ARTICLE I. The party first named engages himself to make to the second party named above an immediate payment of 60 yards of *savelist*, 20 pieces of superior stuffs, 8 pieces of ratteen stuff, and a keg of powder. He, moreover, engages to make to the above-named party of the second part, his heirs and successors, a monthly payment, which shall commence in four months, with arrears from the date of this contract, of four pieces of stuffs, and to continue always this payment, if, in compensation therefor, the party of the second part, in his name and in that of his heirs and successors, makes an absolute and immediate sale of a certain portion of territory sketched further on, described in Art. 2, the territory selected by the first-named party, and over which the flag of the *comité d'études* of the Upper Congo, that is to say, a blue flag with a yellow star in the center, has been raised.

ART. II. The country ceded by the above-named article is described below, and accepted by the contracting parties, Captain John Grant Elliott and the King.

1. Six miles towards the west, from the junction of the Niadi and the Ludema, and following the banks of the Niadi (Niari).

2. Ten miles from the same confluence, towards the south, and following the banks of the Ludema.

3. Ten miles towards the east, from the confluence above named, and following the course of the Niadi (Niari).

4. Ten miles towards the south, from the same confluence, and following the Ludema.

5. Ten miles to the north of the Niadi (Niari), on each side from that point of the Niadi opposite the mouth of the Ludema, running back five miles towards the north.

GRANT ELLIOTT.

WULN M'BOOMGA.

Witnesses:

VON SHAUMANN.

LEGAT.

DESTRAIN.

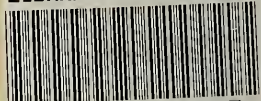
Table of treaties, and of the stations created by the International Association of the Congo, and which form the chief places of the states possessed by this Association on the Congo and on the Niadi Kuiloo.

No.	Names of stations.	Names of treaties and of districts ceded.
I	Vivi.....	Vivi. Yellala. Sala Kidougo. Ganghila. Sadika Banzi. Ingba. N'Sanda. Kionzo. N'Bambi M'bongo.
II	Issanghila.....	Talaballa. Issanghila. Ndambi M'bongo. M'Kelo. Fua na Sondy. Konimovo M'Bongo. Yanga. Kamsalon. M'binda. Sakali Boadi. Tchouma Ranga. Tombukile. Ngoma. N'Zadi. Tchincala.
III	Manayanga.....	Banza ugombi. Manayanga. Bandanga. Banza. M'Bou.

Table of treaties and of the stations created by the International Association of the Congo, &c.—Continued.

No.	Names of stations.	Names of treaties and of districts ceded.
IV	Lutete.....	Sello. Loufountchon.
V	Leopoldville	Kimbanda. Ngombi. Leopoldville. Kimpoko. Kinshassa. Kintambou. Souvoulou. M'bala.
VI	Msuata	Woutimi (south). Woutimi (north). Msuata.
VII	Bolobo.....	Bolobo.
VIII	Rudolfstadt	Matchibouga. Tchissanga.
IX	Beandoineville.....	Kitabi. Zientu.
X	Franktown	Mengo. Franktown. Goudon. Ganda. Fouindoukifout. Makouba Bnga. Sitambe. Bieba. Moyby. Matafila. N'Zombo. Ganda Kobombo. Mabuka. Chinnifor.
XI	Stanley Niadi.....	Mudenda. Nyange. Lubu. Zoa. N'Gewella Chunikonbo. M'Gwella. Sangha. Charli.
XII	Stephanieville	Mikasso. Moulanga. Mackanga. Ludema. Ungoonga. Buconzo. Matenda. Tanga Dibiconga. Licarnga. Bumiangha. Chibanda N'Kuni. Kingi.
XIII	Anvers	Anversland. Buda. Towha.
XIV	Gideema.....	Gideemba. Sushwangi.
XV	Lukolela.....	(This and the three following stations have been established, but the treaties not yet received.)
XVI	Equateur	
XVII	Phillippeville	
XVIII	Bulangungu	(As to stations 19 and 20, treaties have been concluded, but their tenor is not known.)
XIX	Mboka.....	
XX	Mkula	
XXI	Grantville	(21 and 22 are secondary stations, intended to fill up the gap between the lines of the Kuitloo and the Congo.)
XXII	Massabe.....	

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